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**MINISTRY OF LABOUR**

**NOTIFICATION**

*New Delhi the 4th February 1952*

**S.R.O. 259.**—In pursuance of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby publishes the following awards of the Industrial Tribunal, Calcutta, in respect of certain applications under section 33-A of the said Act preferred by workmen of banking companies.

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA**

20/1 GURUSADAY ROAD, BALLYGUNGE, CALCUTTA-19.

Before Shri K. S. Campbell-Puri, B.A., LL.B., *Chairman.*

*Section 33-A—Application No. 18*

**HINDUSTHAN COMMERCIAL BANK LTD.**

In the matter of an application, dated 30th May 1951, under section 33-A of the Industrial Disputes Act (as amended) preferred by Shri Sankata Prosad Srivastava of Hindusthan Commercial Bank Ltd., Lucknow.

**Appearances:**

Shri V. N. Sekhri of U.P. Bank Employees Union, for the applicant.

Shri K. N. Bhatnagar, for the Bank.

**AWARD**

**SANKATA PROSAD SRIVASTAVA**

1. This is one of the 140 applications filed under Section 33-A of Industrial Disputes Act (as amended) emanating from Uttar Pradesh. The application was admitted and notice was issued to the other side during the pendency of the industrial dispute pertaining to various banks referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication under Notification No. LR.2(273), dated 21st February 1950, and as such it was taken seisin of without any formal reference for adjudication.

2. On the completion of the pleadings, the hearing was fixed at Lucknow in the third week of December 1951. The representatives of Central Bank of India Ltd., National Bank of India Ltd., Allahabad Bank Ltd., Bank of Baroda Ltd., Punjab National Bank Ltd., United Commercial Bank Ltd., Habib Bank Ltd., Bank of Jaipur Ltd., Hind Bank Ltd., Hindusthan Commercial Bank Ltd., Hindusthan Mercantile Bank Ltd., and Bharat Bank Ltd., as well as the representatives of the U.P. Bank Employees Union attended the proceedings. Each application was heard individually but in the case of Bharat Bank, on the suggestion of parties, the applications were divided into various groups owing to the identical nature of facts and same arguments were applied in each case for the purpose of facility. A separate award is, however, necessary in each application under the provisions of Section 33-A and consequently all applications are dealt with separately for the purpose of adjudication.

3. The material facts in this case may shortly be stated as follows: Shrivastava was an old employee and put in service of about 5 years. In May 1951 when he was working in Chowk Pay Office his services were terminated on the closure of that branch. His grievance is that the Manager of Chowk Pay Office was inimical towards him and that the termination of his service was traceable to his trade union activities. Shri Sekhri, the Union representative, arguing on his behalf further explained that the petitioner applied for sick leave but was called upon by the Manager to file a Medical Certificate, which elicited some discussion but the Manager lost his temper and threatened the petitioner with a charge sheet. It was further argued that although no enquiry was made regarding the aforesaid incident yet sometime after the petitioner received an order to the effect that his services had been terminated. It was maintained that the services of the petitioner were dispensed with maliciously at the instance of the Manager although the order conveyed that his services were no longer required on account of the closure of Chowk Pay Office.

4. The Bank representative on the other hand submitted that the incident referred to by the Union representative occurred in March 1951 and had no connection with the discharge order inasmuch the services of Shri Srivastava came to close on the closure of Chowk Pay Office in May 1951. It was emphasised that when Chowk Pay Office was closed he became surplus to the requirement and an offer was made to him either to go to Amritsar or to Bombay. He however declined to proceed anywhere and the Bank had no alternative but to terminate his services. Shri Bhatnagar categorically denied that the Manager had any malice against the petitioner. Now in regard to the offer, the Union representative Shri Sekhri frankly admitted that on the closure of Chowk Pay Office the petitioner was asked to go to Amritsar or Bombay but he did not avail the offer as his wife was seriously ill and he could not go at a distant place on meagre salary. It was contended at the same time that the petitioner could have been absorbed in some other office in Uttar Pradesh and that he actually worked for one day at Aminabad but was called upon to handover his charge. The position taken up by the Bank with regard to the petitioner's work at Aminabad for one day was that he was asked to go to Aminabad branch to handover the records and it was wrong to say that he joined Aminabad Branch.

5. On the appreciation of the arguments I think that the incident of March 1951 for which the petitioner was charge-sheeted might have prejudiced the Manager Chowk Pay Office against Shri Srivastava but it does not stand to reason that the Chowk Pay Office was closed in order to punish the petitioner. The closure of the Chowk Pay Office must have affected some other employees also and in the absence of any evidence that Chowk Pay Office has been restarted it is futile to urge that the termination of Srivastava's services had any connection with the incident of March 1951. If it had been so no offer should have been made to him to go to Amritsar or Bombay. Furthermore, if his conduct for which he was charge-sheeted in March 1951 was responsible for the termination of his services he should have been straightway transferred to Amritsar at that time. It seems clear to me that his services came to close on account of the closure of Chowk Pay Office. It is an admitted fact moreover that Hindustan Commercial Bank is a 'C' class Bank and was given some time to rehabilitate their affairs by the All India Industrial Tribunal (Bank Disputes), and although the Bank had closed more than one branches yet an offer was made to him to join Amritsar Branch but he declined to go. In these circumstances I am of the opinion no interference is called for on the merits. Regarding the legal objection *viz.* 'that no permission was obtained as contemplated under section 33' it appears that the management had been working under the directions of the All India Industrial Tribunal and closed some of their offices which had become unremunerative units; and as such want of permission was not *mala fide* and need not disturb the decision on merits. The petitioner however was an old employee and was entitled to some retrenchment relief which I assess at the rate of half month's salary plus allowances for each completed year of service. The result is that the petitioner's prayer for reinstatement is disallowed but the Bank is directed to pay him half month's salary plus allowances for each completed year of service as compensation at the rate which he was drawing at the time of discharge. This direction will be carried out within one month when the award becomes effective. Awarded accordingly.

K. S. CAMPBELL-PURI, *Chairman,*  
Central Government Industrial Tribunal, Calcutta.

CALCUTTA;

9th January, 1952.

## CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

20/1 GURUSADAY ROAD, BRILLIGUNGE, CALCUTTA-19.

Before Shri K. S. Campbell-Puri, B.A., LL.B., *Chairman*.

## Section 33-A—Application No. 29

HINDUSTHAN COMMERCIAL BANK LTD.

In the matter of an application, dated 6th June 1951, under Section 33-A of the Industrial Disputes Act (as amended) preferred by Shri Aditya Narain Pandey of Hindusthan Commercial Bank Ltd., Mauranipur.

*Appearances:*

Shri V. N. Sekhri of U.P. Bank Employees Union, for the applicant.

Shri K. N. Bhatnagar, for the Bank.

## AWARD

ADITYA NARAIN PANDEY

1. This is one of the 140 applications filed under Section 33-A of Industrial Disputes Act (as amended) emanating from Uttar Pradesh. The application was admitted and notice was issued to the other side during the pendency of the industrial dispute pertaining to various banks referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication under Notification No. LR2(273), dated 21st February 1950 and as such it was taken seizin of without any formal reference for adjudication.

2. On the completion of the pleadings, the hearing was fixed at Lucknow in the third week of December 1951. The representatives of Central Bank of India Ltd., National Bank of India Ltd., Allahabad Bank Ltd., Bank of Baroda Ltd., Punjab National Bank Ltd., United Commercial Bank Ltd., Habib Bank Ltd., Bank of Jaipur Ltd., Hind Bank Ltd., Hindusthan Commercial Bank Ltd., Hindusthan Mercantile Bank Ltd., and Bharat Bank Ltd., as well as the representatives of the U.P. Bank Employees Union attended the proceedings. Each application was heard individually but in the case of Bharat Bank, on the suggestion of parties, the applications were divided into various groups owing to the identical nature of facts and same arguments were applied in each case for the purpose of facility. A separate award is, however, necessary in each application under the provisions of Section 33-A and consequently all applications are dealt with separately for the purpose of adjudication.

3. The case of the applicant put briefly is that the services of this employee were all of a sudden terminated on 2nd March 1951 on the plea that he had become surplus to the requirement of the Bank by paying him 3 months salary and allowances in lieu of notice. It was contended on his behalf that he worked for about two years and his work was satisfactory. He was not charge-sheeted or called upon to explain for any fault. It was next urged that neither permission was obtained nor the principle of 'last come first go' was observed although fresh appointments were made subsequently.

4. Shri K. N. Bhatnagar, Bank representative, in reply submitted that permission was not obtained because the same was not necessary in cases of retrenchment. In reply to the other contention that the principle of 'last come first go' was not observed it was argued that he was working in the Cash Department and with the withdrawal of the guarantee by the Treasurer in his case, he had to go irrespective of security. The Bank representative further stated that it was not correct to say that in this particular branch any new appointment was made.

5. Now in regard to the permission under section 33 as observed in the case of Shri Sankata Prosad Srivastava, I am of the opinion that this Bank which was placed in 'C' class Banks category and was allowed to rehabilitate their financial position by closing some of the branches, the technical flaw of not having obtained the permission should not disturb the decision on merits. This is also a case of retrenchment and I think it would be difficult for the Bank to take the petitioner back in service. He is of course entitled to retrenchment relief which is assessed at the rate of half month's salary plus allowances for each completed year of service. The result is that the Bank is directed to pay Shri A. N. Pandey half month's salary plus allowances for each completed year of service at the rate of salary that he was drawing at the time of discharge within one month from the date when the award becomes operative.

CALCUTTA;

9th January, 1952.

K. S. CAMPBELL-PURI, *Chairman*,Central Government Industrial Tribunal,  
Calcutta.

## CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

21/1 GURUSADAY ROAD, BALLYGUNGE, CALCUTTA-19.

Before Shri K. S. Campbell-Puri, B.A., LL.B., Chairman.

Section 33-A—Application No. 144

HINDUSTHAN COMMERCIAL BANK LTD.

In the matter of an application, dated 13th August 1951, under section 33-A of the Industrial Disputes Act (as amended) preferred by Shri Mannu Singh, Godown Keeper, Hindusthan Commercial Bank Ltd., Datia.

*Appearances:*

None for the applicant.

Shri K. N. Bhatnagar, for the Bank.

## AWARD

## MANNU SINGH

1. This is one of the 140 applications filed under Section 33-A of Industrial Disputes Act (as amended) emanating from Uttar Pradesh. The application was admitted and notice was issued to the other side during the pendency of the industrial dispute pertaining to various banks referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication under Notification No. LR.2(273), dated 21st February 1950 and as such it was taken seizin of without any formal reference for adjudication.

2. On the completion of the pleadings, the hearing was fixed at Lucknow in the third week of December 1951. The representatives of Central Bank of India Ltd., National Bank of India Ltd., Allahabad Bank Ltd., Bank of Baroda Ltd., Punjab National Bank Ltd., United Commercial Bank Ltd., Habib Bank Ltd., Bank of Jaipur Ltd., Hind Bank Ltd., Hindusthan Commercial Bank Ltd., Hindusthan Mercantile Bank Ltd., and Bharat Bank Ltd., as well as the representatives of the U.P. Bank Employees Union attended the proceedings. Each application was heard individually but in the case of Bharat Bank, on the suggestion of parties, the applications were divided into various groups owing to the identical nature of facts and same arguments were applied in each case for the purpose of facility. A separate award is, however, necessary in each application under the provisions of Section 33-A and consequently all applications are dealt with separately for the purpose of adjudication.

3. The petitioner was not present and his case was heard in absentia with the application of Rule 19 of the Industrial Disputes (Central) Rules. His case as disclosed from the application put briefly is that he was a permanent employee of the Bank having joined in December 1943. His services were terminated on 28th December 1950 without having obtained the previous permission of the Tribunal although proceedings were pending.

4. The Bank representative in reply took up the same position *viz.* that his services were terminated as he had become surplus to the requirement of the Bank on payment of three months salary. In regard to the permission it was maintained that the same was not necessary as he was discharged in compliance with directions given in para. 322 of the All India Industrial Tribunal (Bank Disputes) award. The legal objections have been discussed and answered in other applications and the same finding prevails.

5. This is also a case of retrenchment and it is difficult to call upon the Bank to take the petitioner back in service. He is of course entitled to retrenchment relief which is assessed at the rate of half month's salary plus allowances for each completed year of service. The result is that the Bank is directed to pay Shri Mannu Singh half month's salary plus allowances for each completed year of service at the rate of salary that he was drawing at the time of discharge within one month from the date when the award becomes operative.

K. S. CAMPBELL-PURI, Chairman,  
Central Government Industrial Tribunal,  
Calcutta.

CALCUTTA;  
9th January 1952.

## CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

20/1 GURUSADAY ROAD, BALLYGUNGE, CALCUTTA-19.

Before Shri K. S. Campbell-Puri, B.A., LL.B., *Chairman*.

Section 33-A Application No. 16

HINDUSTHAN COMMERCIAL BANK LTD.

In the matter of an application, dated 24th May 1951, under section 33-A of the Industrial Disputes Act (as amended) preferred by Shri Pyarey Lal Katiyar, Clerk, Hindusthan Commercial Bank Ltd., Kanpur Main Branch, through U.P. Bank Employees Union.

*Appearances:*

Shri V. N. Sekhri of U.P. Bank Employees Union for the applicant.

Shri K. N. Bhatnagar for the Bank

## AWARD

## PYAREY LAL KATIYAR

1. This is one of the 140 applications filed under Section 33-A of Industrial Disputes Act (as amended) emanating from Uttar Pradesh. The application was admitted and notice was issued to the other side during the pendency of the industrial dispute pertaining to various banks referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication under Notification No. LR.2(273), dated 21st February 1950 and as such it was taken seisin of without any formal reference for adjudication.

2. On the completion of the pleadings, the hearing was fixed at Lucknow in the third week of December 1951. The representatives of Central Bank of India Ltd., National Bank of India Ltd., Allahabad Bank Ltd., Bank of Baroda Ltd., Punjab National Bank Ltd., United Commercial Bank Ltd., Habib Bank Ltd., Bank of Jaipur Ltd., Hind Bank Ltd., Hindusthan Commercial Bank Ltd., Hindusthan Mercantile Bank Ltd., and Bharat Bank Ltd., as well as the representatives of the U.P. Bank Employees Union attended the proceedings. Each application was heard individually but in the case of Bharat Bank, on the suggestion of parties, the applications were divided into various groups owing to the identical nature of facts and same arguments were applied in each case for the purpose of facility. A separate award is, however, necessary in each application under the provisions of Section 33-A and consequently all applications are dealt with separately for the purpose of adjudication.

3. P. L. Katiyar joined the Bank's service in September 1944. It so happened that he fell ill in October 1950 and applied for leave for two days which was sanctioned. He, however, asked for extension on medical ground upto 31st December 1950 which was not granted, and on the other hand his services were terminated by letter dated 13th October 1950. It was connected on his behalf that he was an old employee and he was neither charge-sheeted nor given any opportunity to submit his explanation and that the order of his discharge was against law and facts. Furthermore, permission under section 33 was not obtained and as such order of discharge was bad in law. Replying to the contention raised by the Bank in the written statement that his services were terminated in accordance with paragraph 322 of the All India Industrial Tribunal (Bank Disputes) award, it was contended that the directions given in paragraph 322 do not speak that senior persons should be shunted off. It was further argued that this was wrong to say that he had become surplus to the requirement and in point of fact new men were employed. Moreover, some persons junior to the petitioner are still working.

4. Shri Bhatnagar, the Bank representative, in reply submitted that this case is also one of retrenchment, and the main cause was shrinkage of business which resulted in the closure of various branches. It was further argued that this Bank which was put in (C) class by the All India Industrial Tribunal (Bank Disputes) was allowed six months time for adjusting the affairs of the Bank and in pursuance of that policy the whole position was reviewed and it was on this review that the services of this employee were terminated on payment of three months' salary and Dearness Allowance as directed in paragraph 322 of the aforesaid award. Regarding the permission under section 33 it was submitted that the same was not necessary because the petitioner was not a workman concerned as contemplated under section 33.

5. In reply the Union representative added that Shri Katiyar was working in the main office and he was not retrenched on the closure of any branch and in the

circumstances it was not a case of retrenchment but one of unjustifiable discharge if not of victimization. It was vehemently urged that he was on leave on medical ground when order of discharge was communicated to him and this indicates that the management was prejudiced for his asking for extension.

6. Now on the appreciation of all the facts and circumstances it seems clear to me that although this case is also one of retrenchment yet the facts of this case stand on different footing and as such cannot be treated on the lines adopted in some previous applications. So far the permission as contemplated under section 33 of the Act is concerned my finding given in the cases of Shri Sankata Prosad Srivastava, Aditya Narain Pandey and Mannu Singh, Godown Keeper *viz.*, 'that the technical flaw of not having obtained permission under the impression that this Bank was directed by the All India Industrial Tribunal (Bank Disputes) to close some of their unecconomic branches in order to rehabilitate their financial position' may well stand in this case also. The authority cited on behalf of the petitioner in this respect *viz.* Fertilizers and Chemicals, Travancore Ltd., and their workmen (Labour Law Journal—August 1951 p. 211) is not in point inasmuch as in that ruling their lordships of the Labour Appellate Tribunal held that wherever possible the discharged persons be absorbed in some other branches. In the case of Hindusthan Commercial Bank which is a C class Bank the question of absorption hardly arises. On merits however, as observed above the facts of this case are susceptible to further consideration. The services of Shri P. L. Katiyar were not terminated on the closure of any branch but he appears to have been picked up out of the lot on the plea of general review of Bank's services. The petitioner was on sick bed and had already been granted leave on medical ground but it so happened that he applied for an extension and in return received the letter of discharge. It appears that the Bank management while reviewing on the question of retrenchment thought of getting rid of the man who asked for extension of leave. Be that as it may I am not satisfied that the Bank was justified in terminating the services of an old employee who had asked for extension but was discharged without assigning any good reason as to how he had become surplus. In the case of closure of a branch it is understandable that the services of incumbents of the branch come to close without any discrimination but to retrench one working in the head office at the critical time of his illness must require good cogent reasons to dispense with his services. In the result I would hold that his discharge from service was unjustifiable but in view of the Bank's position I am not prepared to allow reinstatement. He is, however, entitled to substantial compensation which I assess six months' salary plus allowances at the rate that the petitioner was drawing at the time of discharge. This direction will be carried out within one month with effect from the date when the award becomes operative.

K. S. CAMPBELL-PURI, *Chairman*,  
Central Government Industrial Tribunal,  
Calcutta.

CALCUTTA;

9th January 1952.

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

20/1 GURUSADAY ROAD, BALLYGUNGE, CALCUTTA-19.

Before Shri K. S. Campbell-Puri, B.A., LL.B., *Chairman*.

Section 33-A—Application No. 17

HINDUSTHAN COMMERCIAL BANK LTD.

In the matter of an application, dated 21st May 1951 under section 33-A of the Industrial Disputes Act (as amended) preferred by Shri Ajodhya Nath Kapoor, Officer-in-Charge, Chowk Pay Office, Hindusthan Commercial Bank Ltd., Kanpur, through U.P. Bank Employees Union.

#### Appearances:

Shri V. N. Sekhri of U.P. Bank Employees Union for the applicant.

Shri K. N. Bhatnagar for the Bank.

#### AWARD

AJODHYA NATH KAPOOR

1. This is one of the 140 applications filed under Section 33-A of Industrial Disputes Act (as amended) emanating from Uttar Pradesh. The application was

admitted and notice was issued to the other side during the pendency of the industrial dispute pertaining to various Banks referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication under Notification No. LR.2(273), dated 21st February 1950 and as such it was taken seisin of without any formal reference for adjudication.

2. On the completion of the pleadings, the hearing was fixed at Lucknow in the third week of December 1951. The representatives of Central Bank of India Ltd., National Bank of India Ltd., Allahabad Bank Ltd., Bank of Baroda Ltd., Punjab National Bank Ltd., United Commercial Bank Ltd., Habib Bank Ltd., Bank of Jaipur Ltd., Hind Bank Ltd., Hindusthan Commercial Bank Ltd., Hindusthan Mercantile Bank Ltd., and Bharat Bank Ltd., as well as the representatives of the U.P. Bank Employees Union attended the proceedings. Each application was heard individually but in the case of Bharat Bank, on the suggestion of parties, the applications were divided into various groups owing to the identical nature of facts and same arguments were applied in each case for the purpose of facility. A separate award is, however, necessary in each case for the purpose of facility. A separate award is, however, necessary in each application under the provisions of Section A and consequently all applications are dealt with separately for the purpose of adjudication.

3. The essential facts gathered from arguments as well as pleadings are these: Shri Kapoor joined the Bank service in 1944 and was an old employee. It so transpired that in December 1950 he was given a charge-sheet to the effect that the petitioner had purchased clean bills drawn on Messrs. Hari Shankar Kapoor at Kanpur beyond the sanctioned limit by the head office and that he also allowed the parties current account to be over drawn without any security or authority as detailed in the correspondence Ext. T. to H. The petitioner was called upon to explain as to why he allowed such accommodation to the parties in his cash-credit account sanctioned by head office and on some occasions beyond the value of the stocks in Bank's custody. The petitioner was asked to submit his explanation to the charge-sheet which he did on 15th December 1950. He was suspended on the same date. He, however, received another letter from the Inspector of branches on 20th December 1950 to the effect that he should again take charge of the Chowk Pay Office, where he worked for a fortnight and after that he was asked to hand over charge to one Mr. Seth and he was transferred to Hazratganj office. He worked at the said office for 3 days i.e. 3rd to 6th January 1951 when he received a letter enclosing the suspension order dated 18th December 1950. On 19th February 1951 he ultimately received a letter from the Inspector of Branches that he had been dismissed from service.

4. Shri Kapoor besides repudiating the charges levelled against him in his written explanation made a representation to the Managing Director also to hear him personally on the charges but no reply was forthcoming. It was contended that in these circumstances, no proper enquiry was made and he was denied the chance of leading evidence in defence despite his repeated requests to appear before the Committee of Directors.

5. In support of the arguments summarised above reliance was placed on some documentary evidence comprising of various letters exhibited on the record (Exhibits A, B, C, D, E, F, G and J). Now the Exhibits E, F, G and J are copies of the representation sent by the petitioner to the Managing Director to hear him in person. Ex. D is the actual explanation which the petitioner submitted in reply to the charge while Exs. A and B relate to his transfer and suspension in the course of enquiry. On the strength of this documentary evidence it was strenuously contended that Shri Kapoor was not given sufficient opportunity to meet his case. It was next argued that the neglect or deliberate connivance if any, in not complying with the instructions of the head office moreover was not the result of his action but it was done under the instructions of the Inspector of Branches as evidenced from the chits of introduction Exs. K-1, K-2 and K-3. Similarly in regard to the alleged unauthorized advances it was contended that the same were made under the instructions of the Inspector of Branches as evidenced from his chit Ex. L. It was maintained that in these circumstances the petitioner did not exceed his authority of his own accord nor did he make these advances in bad faith. It was further argued that he had been submitting statements regularly to the head office with regard to the advances whenever it was made and in the column of remarks necessary particulars were duly mentioned. Lastly, it was urged that the advances and other transactions referred to in the charge-sheet did not bring any loss to the Bank and the transactions ultimately proved profitable. It was also asserted that the accounts with this party had been irregular since long and it was in the

knowledge of the head office but they did not like to loose such profitable accounts. Reliance was placed in this connection on certain telephone bills Exs. M and M-1. It was concluded that the Bank did not suffer any loss and the petitioner was victimised only in order to save the Inspector of Branches. Shri Sekhri also pointed out that the extreme penalty of dismissal at any rate was not warranted by the facts of the case and on the top of it the necessary permission was not obtained as contemplated under the provisions of section 33 of the amended Act.

6. Shri Bhatnagar, Bank representative, equally with some vehemence contended that the petitioner was duly charge-sheeted for certain delinquency enumerated in the charge-sheet and was called upon to submit his explanation which was duly considered and the Board came to the conclusion that the charge was brought home to the petitioner and he was dismissed. Reference was made to the concluding paragraphs of the explanation of the petitioner dated 16th December 1950 and it was argued that he has admitted in so many words having committed the offence and asked for condonation in view of his past honest work. It was emphasised that the petitioner deliberately contravened the instructions in allowing advances beyond prescribed limit and in purchasing clean bills and furthermore, as admitted by him, when the account was going on irregularly since long it was his duty to stop irregular advances instead of taking shelter under the plea that the procedure adopted continued for some time. Replying to the argument that the advances were made on the introductory chits of the Inspector of Branches, Shri Bhatnagar, urged that the plea was untenable inasmuch as it was not proper for a responsible officer like the petitioner to go ahead and make unauthorised advances on anybody's asking. In regard to the enquiry, it was submitted on behalf of the Bank that the petitioner was duly charge-sheeted and was afforded an opportunity to explain himself and his complaint that he was not heard by the Directors was meaningless because all his representations in that connection were placed before the Directors and were duly considered. Lastly reference was made to the case of Shri R. S. Kapoor, who had been already arraigned for making unauthorised advances along with this petitioner and reliance was placed on the decision given by this Tribunal in the case of R. S. Kapoor in the U.P. State Bank Disputes award (published in the *Gazette of India*, dated 15th September 1951).

7. Now the main features upon which emphasis has been laid by the Union side are (1) that these advances were made on the strength of introductory letters issued by the Inspector of Branches; (2) that the constituent was in sound financial position and the Bank made profit out of the transactions and did not incur any loss; (3) that the petitioner had been submitting statements and in the column of remarks reference was made to these advances and as such the head office was well aware that the advances were being made beyond the prescribed limit; (4) that his representations made to the Managing Director were not responded to and he was not allowed an opportunity to meet his case before the Managing Director; (5) that the chits (Exs. K-1, K-2 and K-3) sent to Shri Kapoor by Inspector of Branches with request to accept Messrs. L. Moti Lal Khattri's advance as a special case as well as that of another Messrs. H. L. Sinha & Co., and to accept a hundi for Rs. 40,000 exonerate him from the responsibility of making unauthorised advances. Now the examination and perusal of these chits reveals that the request made was subject to avail telephone instructions. This documentary evidence of course be-speak that Shri Kapoor was asked by the Inspector of Branches to deal with some of the cases as special cases. Ex. N is another document which reveals that some trunk call bills were submitted in this connection. The question virtually which falls for consideration is as to whether the petitioner can be exonerated from his responsibilities when he exceeded the prescribed limit in making unauthorized advances, notwithstanding of the fact that somebody else was also responsible for this, when the hard fact remains that a large amount of money was advanced against the express behests and injunctions issued by the head office in this connection. The other argument advanced that no legitimate loss was occasioned may look plausible but it hardly makes good argument that something which is wrong to one's knowledge should be allowed to proceed and then it may be pleaded that it did not bring any loss. The question more or less is whether the petitioner deliberately contravened the strict injunctions with regard to the making of unauthorised advances. His explanation and the arguments based on that explanation leave little doubt in the matter that advances made were unauthorized and continued for a pretty long time. The only other point to be considered in this respect is that the head office must have been aware of what was going on and connived for time. This argument to my mind does create an extenuating circumstance but it would not go to prove that the fault was condoned by the head office. What actually happened was that the petitioner was charge-sheeted for his conduct in making unauthorized advances and was called upon to



submit his explanation. On the other hand the Bank also produced some documentary evidence in the form of Exs. 1, 2 and 3. to rebut the presumption relied upon by the petitioner. Ex. 1 is the detailed report of the Establishment Superintendent wherein the main charges against Shri A. N. Kapoor have been summarized and reference was also made to the instructions of the Inspector of Branches, Lucknow. In this report the Inspector of Branches had remarked that he was 'dead against any increase in the clean B.P. limits of the party concerned' and on one occasion when he had authorized to accommodate the party to the extent of Rs. 40,000 against the security of stocks was with the explicit understanding that this facility should be fully and finally adjusted within three days from the date of its origin. It was emphasised that Mr. Kapoor had been indulging in purchasing almost clean bills from the party without any authority and also allowed the cash credit account to be overdrawn beyond its limit. Reference was also made in this report to various irregularities relating to Shri A. N. Kapoor as well as Shri R. S. Kapoor, his predecessor in regard to large amounts. On the perusal of this report it appears that Shri R. S. Kapoor as well as the petitioner Shri A. N. Kapoor's cases were considered at the same time and the personal files of both were also submitted for the perusal of the Sub-Committee of Directors. Ex. 2 is a communication sent under the signature of the Secretary to the Establishment Superintendent to the effect that his note dated 18th January 1951 regarding Shri A. N. Kapoor and Shri R. S. Kapoor along with the explanation were perused at the last meeting and the decision of the Managing Directors to dismiss these employees were confirmed by their resolution No. 16 of the same date. Ex. 3 is another communication sent by the Secretary to the Establishment Superintendent which reads as follows:

Ex. 3:

*Est. Supdt.*

*Rs: Chowk-Lucknow Office: Ex-Employees Representations.*

Vide its resolution No. 13 of 13th March 1951 the sub-committee perused representations received from Shri A. N. Kapoor and Shri R. S. Kapoor, Ex-employees of Bank's Chowk-Lucknow Office and it was decided that the dismissal orders already passed, be allowed to stand.

Please note and act accordingly. Papers submitted by you are returned herewith.  
SD:

Secretary.

From this documentary evidence relied upon by the Bank it appears that the pleas advanced by the petitioner were duly considered by the Sub-Committee and the representations were also considered by the Directors which he submitted after the report of the Superintendent. This is correct that he was not given a personal interview but that by itself I do not think detracts from the due enquiry which appears to have been made with the observance of regular procedure. The Committee of Directors have given their due consideration to all the facts and circumstances and in the absence of any evidence that it was a case of bad labour practice or the petitioner was arraigned maliciously, I do not think I could substitute my judgment in place of the decision already arrived at. Furthermore, I have already given my finding in the case of Shri R. S. Kapoor who was dismissed along with this petitioner (Shri A. N. Kapoor) for the same charge. The award in the case of Shri R. S. Kapoor was published in the Government of India Gazette, dated 15th September 1951 and although I see that this petitioner has brought some new facts made especially 'that he had been submitting statements to the head office but the head office did not move,' yet I have not been able to persuade myself to treat the case of this petitioner differently from that of Shri R. S. Kapoor on this distinguishing feature. The main charge of making unauthorised advances and purchasing clean bills against the express and direct instructions of the head office was brought home to the petitioner with the result that the petitioner fails and is disallowed. In regard to the last plea that necessary permission as contemplated under section 33 of Industrial Disputes Act (as amended) was not obtained, suffice to say that as discussed in other application this technical defect should not obstruct the decision on merits inasmuch as this defect does not make the order void *ab-initio* as held by the Hon'ble Labour Appellate Tribunal in the case of United Commercial Bank Ltd., Vs. P. M. Rohtagi and others (Appeal No. Cal-359/51).

K. S. CAMPBELL-PURI, Chairman,

Central Government Industrial Tribunal, Calcutta.

CALCUTTA;

9th January 1952.

## CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

20/1 CHURCHWAY ROAD, BALLYGUNGE, CALCUTTA—19.

Before Shri K. S. Campbell-Puri, B.A., LL.B., *Chairman*.

Section 33-A—Application No. 30

HINDUSTHAN COMMERCIAL BANK LTD.

In the matter of an application dated 4th June 1951, under section 33-A of the Industrial Disputes Act (as amended) preferred by Shri Mahadeo Prasad Malviya, Audit Superintendent, Hindusthan Commercial Bank Ltd., Head Office, Kanpur, through U.P. Bank Employees Union.

*Appearances:*

Shri V. N. Sekhri of U.P. Bank Employees Union, for the applicant.

Shri K. N. Bhatnagar, for the Bank.

## AWARD

## MAHADEO PRASAD MALVIYA

1. This is one of the 140 applications filed under Section 33-A of Industrial Disputes Act (as amended) emanating from Uttar Pradesh. The application was admitted and notice was issued to the other side during the pendency of the industrial dispute pertaining to various banks referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication under Notification No. LR. 2(273), dated 21st February 1950 and as such it was taken seisin of without any formal reference for adjudication.

2. On the completion of the pleadings, the hearing was fixed at Lucknow in the third week of December 1951. The representatives of Central Bank of India Ltd., National Bank of India Ltd., Allahabad Bank Ltd., Bank of Baroda Ltd., Punjab National Bank Ltd., United Commercial Bank Ltd., Habib Bank Ltd., Bank of Jaipur Ltd., Hind Bank Ltd., Hindusthan Commercial Bank Ltd., Hindusthan Mercantile Bank Ltd., and Bharat Bank Ltd., as well as the representatives of the U.P. Bank Employees Union attended the proceedings. Each application was heard individually but in the case of Bharat Bank, on the suggestion of parties, the applications were divided into various groups owing to the identical nature of facts and same arguments were applied in each case for the purpose of facility. A separate award is, however, necessary in each application under the provisions of Section 33-A and consequently all applications are dealt with separately for the purpose of adjudication.

3. The case of the petitioner briefly summarized is that he had been working in Allahabad Bank and would have earned pension after putting in one or two years more service in that Bank, when he was approached by one of the Directors of the Hindusthan Commercial Bank and was persuaded to give up his job in Allahabad Bank and accept an appointment in Hindusthan Commercial Bank. In view of the fact that higher salary was offered to him he succumbed to the temptation and accepted the offer. The work entrusted to him was to organize and open Calcutta Burra Bazar Branch but sometime after he discovered that he was to work in subordination to the Agent of another branch viz., Clive Street Branch and also found that the service agreement promised to him was not forthcoming. It was further alleged that in September 1945 the services of the petitioner were transferred to Clive Street Branch where he had to work as second man to the Agent. Two years after i.e. in May 1947 he was again transferred to head office in organize and start Evacuation Department which was started in anticipation of the creation of Pakistan. In October 1947 however he was transferred to Kanpur Main Office as Sub Agent where he had to work under the control and direction of the then District Manager who was holding office in the same premises. He was again sent to head office in June 1949 to take charge of the Audit Department and his duties as such were to check the advances and submit reports to the higher officers in case of irregularities found in the accounts. At the time of discharge he was working as Audit Superintendent in September 1950 and had no directional or controlling powers. His grievance now is that his services were terminated without assigning any good reason and the one reason mentioned in the letter of discharge that he had become surplus to the requirement of the Bank on account of the recognition at the head office was pretext.

4. Shri Sekhri arguing on behalf of the petitioner in the light of above facts maintained that Shri Malviya had no directional or controlling powers throughout his career described above and could not be treated as an officer as urged on the Bank side. On merits it was submitted that his services were terminated without any good reason or having obtained prior permission of the Tribunal during the pendency of the Tribunal proceedings in Bank cases. Lastly, it was submitted that even if the reason given in the letter of discharge viz., that he had become

surplus to the requirements of the Bank the principle of 'last come first go' was not applied and persons junior to Shri Malviya in same cadre were allowed to continue. It was emphasised that his was a hard case who had left Allahabad Banks' service in expectation of better prospects but the Bank did not allow him to enjoy the full term of service.

5. The Bank representative raised the preliminary objection in the first instance to the effect that Shri Malviya was holding the post of Audit Superintendent and as such was an officer and did not satisfy the definition of 'workman' and his case was not triable by the Tribunal, under the Industrial Disputes Act. It was further stated that he joined the Bank's service on the basis of an express agreement as evidenced from the original application Ex. 1 and letter of appointment Ex. 2 given to him on the basis of Ex. 1.

6. The legal objection raised by the Bank goes into the root of the case and may well be considered at the very outset. Shri Sekhri arguing in this connection relied upon (1) Criminal Law Journal—43 Indian cases—791—1918—Punjab—wherein it was held that only the Manager who is in charge of the whole show is an officer; (2) Indian Factories Journal—Vol. II—page 80 (Calcutta High Court decision)—Municipal Commissioner of Budge Budge Municipality Vs. P. R. Mukherjee, wherein it was held that anyone working in an industry is a workman. Both these authorities are not in point inasmuch as the decisions were not made under the Industrial Disputes Act. The decision of the latter cases viz. Municipal Commissioner of Budge Budge Municipality was not made available but it appears that it related to a particular industry and does not constitute good authority in contradistinction to the authoritative decisions given under the Industrial Disputes Act. On the other hand the Bank representative referred to Delhi State Bank Disputes Award (published in the gazette of India dated 30th December 1950) as well as U.P. Conciliation Board award para. 13(t) wherein it was held that Sub Agents do not satisfy the definition of 'workman' as given in Section 2(s). The question has been discussed at some length by this Tribunal in Delhi State award wherein Agents, Sub Agents, Superintendents have not been held as workman and I see no good reason to depart from the finding already given by me. Shri Sekhri, however, advanced another argument in this connection viz., that Superintendents in big banks like Imperial Bank of India may be treated as officers but this post in small Banks should not be taken at par. The argument has some force but the difficulty is that Hindusthan Commercial Bank was also a party to Delhi and Punjab State awards in which case, Superintendents were treated as officers. The status of a Superintendent in a Bank carries great responsibility and is taken as a superior office even to the Agents and Managers of some of the branches who are admittedly taken as officers. The pay of the petitioner was also Rs. 600 i.e. more than Rs. 500 which amount was considered as one of the determining factor in this respect in some of the awards by the All India Industrial Tribunal (Bank Disputes), Bombay as well as some other Tribunals. The preliminary objection accordingly succeeds and the application fails on this short ground. The other objection raised by the Bank is also sound and prevails inasmuch as Shri Malviya in his own application (Ex. 1) which is reproduced below joined the service of this Bank on an agreement of 5 years on a salary of Rs. 600 plus allowances:

Ex. 1:

c/o Allahabad Bank Ltd.,

Burra Bazar, Calcutta, 20th January 1944.

To

Lala Karam Chandji Thapar,  
Calcutta.

Respected Sir,

I beg to convey my acceptance of your verbal offer made to me in the interview yesterday for the post of the Manager for Burra Bazar Office of the Hindusthan Commercial Bank Ltd., on the following terms and shall be glad if you would please confirm so that I could make early arrangements to place my services at your disposal.

- |                 |                                       |
|-----------------|---------------------------------------|
| (1) Pay         | Rs. 600                               |
| Local Allowance | Rs. 125                               |
| War Allowance   | Rs. 100                               |
| Total           | Rs. 825 per month free of Income Tax. |
- (2) Agreement for five years minimum.

Yours faithfully,  
(Sd) M. P. Malviya.

7. His own admission made in the application dated 20th January 1944 clinches the matter beyond any manner of doubt that he was working on the basis of an agreement and his services came to close on the expiry of the period of agreement. The application accordingly appears to be frivolous one and must fail. The same is dismissed and the award made in terms thereof.

K. S. CAMPBELL-PURI, *Chairman*,  
Central Government Industrial Tribunal,  
Calcutta.

CALCUTTA;  
10th January 1952.

### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

20/1 GURUSADAY ROAD, BALLYGUNGE, CALCUTTA—19.

Before Shri K. S. Campbell-Puri, B.A., LL.B., *Chairman*.

Section 33-A—Application No. 44.

HINDUSTHAN COMMERCIAL BANK LTD.

In the matter of an application dated 6th June 1951 under section 33-A of the Industrial Disputes Act (as amended) preferred by Shri Rohini Nandan Misra of Hindusthan Commercial Bank Ltd., Kanpur, through U.P. Bank Employees Union.

#### *Appearances:*

Shri V. N. Sekhri of U.P. Bank Employees Union, for the applicant

Shri K. N. Bhatnagar, for the Bank.

#### AWARD

ROHINI NANDAN MISRA

1. This is one of the 140 applications filed under Section 33-A of Industrial Disputes Act (as amended) emanating from Uttar Pradesh. The application was admitted and notice was issued to the other side during the pendency of the industrial dispute pertaining to various banks referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication under Notification No. L.R. 2(273), dated 21st February 1950 and as such it was taken *seizin* of without any formal reference for adjudication.

2. On the completion of the pleadings, the hearing was fixed at Lucknow in the third week of December 1951. The representatives of Central Bank of India Ltd., National Bank of India Ltd., Allahabad Bank Ltd., Bank of Baroda Ltd., Punjab National Bank Ltd., United Commercial Bank Ltd., Habib Bank Ltd., Bank of Jaipur Ltd., Hind Bank Ltd., Hindusthan Commercial Bank Ltd., Hindusthan Mercantile Bank Ltd., and Bharat Bank Ltd., as well as the representatives of the U.P. Bank Employees Union attended the proceedings. Each application was heard individually but in the case of Bharat Bank, on the suggestion of parties, the applications were divided into various groups owing to the identical nature of facts and some arguments were applied in each case for the purpose of facility. A separate award is, however, necessary in each application under the provisions of Section 33-A and consequently all applications are dealt with separately for the purpose of adjudication.

3. The grievance of the petitioner is that he was getting his increments alright and his work was always satisfactory but the yearly increment which fell due on 1st January 1951 was withheld arbitrarily by the employer. It was argued on his behalf by the Union representative that the withholding of the increment amounted to the violation of the provisions of section 33 and the relief sought for was for the release of the increment with effect from 1st January 1951.

4. Shri K. N. Bhatnagar, Bank representative in reply urged that on the annulment of the All India Industrial Tribunal (Bank Disputes) award certain directions were issued by the Ministry of Labour and in compliance to that the salaries were frozen. Reference was made to Industrial Disputes (Amendment and Temporary Provisions) Act, 1951 and it was urged that the construction put by the Bank on the provisions of section 7 of the said Act as stated in the written statement was correct. The Union representative in reply also referred to certain

correspondence on the question of withholding increments between the Bank management and the Conciliation Officer (Central), Kanpur. Shri Bhatnagar was called upon to produce the correspondence in order to appreciate as to what view was taken by the Conciliation Officer in the matter. The same was brought on the record and on the perusal of this correspondence I find that the Bank was more than once asked to release the annual increment due to the staff with effect from 1st January 1951 but the management did not see their way to comply with their directions issued by the Conciliation Officer (Central), Kanpur. A letter dated 3rd March 1951 emanating from the office of the Conciliation Officer (Central), Kanpur No. COK II/2a-51/2614 addressed to the Manager, Hindusthan Commercial Bank on the subject of annual increment reveals that the question was considered on all its aspects by the learned Conciliation Officer. (The letter in question is filed in the case of Rohini Nandan Misra). Another letter No. COK II/2a-450/251, dated 18th May 1951, from the Conciliation Officer (Central), Kanpur to the said Manager in reply to Bank's letter E/51/955, dated 10th May 1951, was also sent in which it was emphasised by the Conciliation Officer that the Bank will take early steps to make payment of the annual increment due to the staff on and from 1st January 1951 for the period from 1st January 1951, to 11th February 1951 and in case they did not agree with the view held by him they would let him know as early as possible. The correspondence shows that no further reply was given by the Bank management and ultimately the same question has been posed for discussion before this Tribunal. The stand taken up by the Bank side is more or less based on the provisions of section 7 of Industrial Disputes (Amendment and Temporary Provisions) Act, 1951 with the impression that the Ministry of labour have passed orders freezing the salaries and allowances. The position however is just the contrary and the legislature meant only that these employees should not get less salary than what they were getting on 1st April 1951. Section 7 reads as follows:

"7. Temporary provisions relating to scales of pay, etc. of workmen in banking companies.—(1) No employer in relation to any banking company carrying on business in any Part A State or the State of Delhi, Ajmer or Coorg or the Andaman and Nicobar Islands shall, save in accordance with the terms of any settlement arrived at, or any award made, under the Industrial Disputes Act, 1947 (XIV of 1947).—

(a) alter, to the prejudice of any workman employed in such banking company, the scale of pay or rate of allowances according to which he has been paid, or would, if he had been continuously employed during the month of March, 1951, have been paid, in respect of any monthly, weekly or other period immediately before the 1st day of April 1951; or

(b) recover from any such workman any amount already paid to him whether as pay or allowances (in accordance with any scales of pay or rates of allowances which were applied to him at any time after the 1st day of February, 1950) on the ground that the workman was not legally entitled to such scales of pay or rates of allowances..

(2) For the removal of doubts, it is hereby declared that notwithstanding anything contained in any law it shall be lawful to make such retrospective adjustment in relation to scales of pay and rates of allowances referred to in sub-section (1) as may be necessary in order to give effect to the terms of any settlement arrived at or award made under the Industrial Disputes Act, 1947 (XIV of 1947)."

The wording clearly ordains that no employer could alter to the prejudice of any workman employed in any Banking Company the scales of pay or rate of the allowance according to which he had been paid. The Bank management either appears to have been misled or has delayed the release of the increment under the barricade of this provision until now. The Provisions upon which reliance was placed clinches the matter and needs no elaboration. In the result the petition succeeds and the Bank is directed to release the increment with effect from 1st January 1951 at the earliest and not later than one month from the date of the publication of the award. Awarded accordingly.

K. S. CAMPBELL-PURI, Chairman,  
Central Government Industrial Tribunal,  
Calcutta.

CALCUTTA;  
10th January 1952.

## CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

20/1 GURUSADAY ROAD, BALLYGUNGE, CALCUTTA—19.

Before Shri K. S. Campbell-Furi, B.A., LL.B., *Chairman**Section 33-A—Application No. 45*

HINDUSTHAN COMMERCIAL BANK LTD.

In the matter of an application dated 6th June 1951 under section 33-A of the Industrial Disputes Act (as amended) preferred by Shri Fateh Chand Tikha of Hindusthan Commercial Bank Ltd., Kanpur, through U.P. Bank Employees Union.

*Appearances:*

Shri V. N. Sekhri of U.P. Bank Employees Union, for the applicant.

Shri K. N. Bhatnagar, for the Bank.

## AWARD

## FATEH CHAND TIKHA

1. This is one of the 140 applications filed under Section 33-A of Industrial Disputes Act (as amended) emanating from Uttar Pradesh. The application was admitted and notice was issued to the other side during the pendency of the industrial dispute pertaining to various banks referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication under Notification No. LR.2(273), dated 21st February 1950 and as such it was taken seisin of without any formal reference for adjudication.

2. On the completion of the pleadings, the hearing was fixed at Lucknow in the third week of December 1951. The representatives of Central Bank of India Ltd., National Bank of India Ltd., Allahabad Bank Ltd., Bank of Baroda Ltd., Punjab National Bank Ltd., United Commercial Bank Ltd., Habib Bank Ltd., Bank of Jaipur Ltd., Hind Bank Ltd., Hindusthan Commercial Bank Ltd., Hindusthan Mercantile Bank Ltd. and Bharat Bank Ltd., as well as the representatives of the U.P. Bank Employees Union attended the proceedings. Each application was heard individually but in the case of Bharat Bank, on the suggestion of parties, the applications were divided into various groups owing to the identical nature of facts and same arguments were applied in each case for the purpose of facility. A separate award is, however, necessary in each application under the provisions of Section 33-A and consequently all applications are dealt with separately for the purpose of adjudication.

3. The grievance of the petitioner is that he was getting his increments alright and his work was always satisfactory out the yearly increment which fell due on 1st January 1951 was withheld arbitrarily by the employer. It was argued on his behalf by the Union representative that the withholding of the increment amounted to the violation of the provisions of section 33 and the relief sought for was for the release of the increment with effect from 1st January 1951.

4. Shri K. N. Bhatnagar, Bank representative in reply urged that on the annulment of the All India Industrial Tribunal (Bank Disputes) award certain directions were issued by the Ministry of Labour and in compliance to that the salaries were frozen. Reference was made to Industrial Disputes (Amendment and Temporary Provisions) Act, 1951 and it was urged that the construction put by the Bank on the provisions of section 7 of the said Act as stated in the written statement was correct. The Union representative in reply also referred to certain correspondence on the question of withholding increments between the Bank management and the Conciliation Officer (Central), Kanpur. Shri Bhatnagar was called upon to produce the correspondence in order to appreciate as to what view was taken by the Conciliation Officer in the matter. The same was brought on the record and on the perusal of this correspondence I find that the Bank was more than once asked to release the annual increment due to the staff with effect from 1st January 1951 but the management did not see their way to comply with their directions issued by the Conciliation Officer (Central), Kanpur. A letter dated 3rd March 1951 emanating from the office of the Conciliation Officer (Central), Kanpur No. COK II/2a-51/2614 addressed to the Manager, Hindusthan Commercial Bank on the subject of annual increment reveals that the question was considered on all its aspects by the learned Conciliation Officer. (The letter in question is filed in the case of Rohini Nandan Misra). Another letter No. COK II/2a-450/251, dated 18th May 1951 from the Conciliation Officer (Central), Kanpur to the said Manager in reply to Bank's letter E/51/955, dated 10th May 1951 was also sent in which it was emphasised by the Conciliation Officer that the Bank will take early steps to make payment of the annual increment due

to the staff on and from 1st January 1951 for the period from 1st January 1951 to 11th February 1951 and in case they did not agree with the view held by him they would let him know as early as possible. The correspondence shows that no further reply was given by the Bank management and ultimately the same question has been posed for discussion before this Tribunal. The stand taken up by the Bank's side is more or less based on the provisions of section 7 of Industrial Disputes (Amendment and Temporary Provisions) Act, 1951 with the impression that the Ministry of Labour have passed orders freezing the salaries and allowances. The position however is just the contrary and the legislature meant only that these employees should not get less salary than what they were getting on 1st April 1951. Section 7 reads as follows:

"7. Temporary provisions relating to scales of pay, etc. of workmen in banking companies—(1) No employer in relation to any banking companies carrying on business in any Part A State or the State of Delhi, Ajmer or Coorg or the Andaman and Nicobar Islands shall, save in accordance with the terms of any settlement arrived at, or any award made, under the Industrial Disputes Act, 1947 (XIV of 1947).—

(a) alter, to the prejudice of any workman employed in such banking company, the scale of pay or rate of allowances according to which he has been paid, or would, if he had been continuously employed during the month of March, 1951, have been paid, in respect of any monthly, weekly or other period immediately before the 1st day of April 1951; or

(b) recover from any such workman any amount already paid to him whether as pay or allowances (in accordance with any scales of pay or rates of allowances which were applied to him at any time after the 1st day of February, 1950) on the ground that the workman was not legally entitled to such scales of pay or rates of allowances.

\* \* \* \*

(2) For the removal of doubts, it is hereby declared that notwithstanding anything contained in any law it shall be lawful to make such retrospective adjustment in relation to scales of pay and rates of allowances referred to in sub-section (1) as may be necessary in order to give effect to the terms of any settlement arrived at or award made under the Industrial Disputes Act, 1947 (XIV of 1947)."

The wording clearly ordains that no employer could alter to the prejudice of any workman employed in any Banking Company the scales of pay or rate of the allowance according to which he had been paid. The Bank management either appears to have been misled or has delayed the release of the increment under the barricade of this provision upto now. The provisions upon which reliance was placed clinches the matter and needs no elaboration. In the result the petition succeeds and the Bank is directed to release the increment with effect from 1st January 1951 at the earliest and not later than one month from the date of the publication of the award.

K. S. CAMPBELL-PURI, *Chairman*,

Central Government Industrial Tribunal, Calcutta.

CALCUTTA;

10th January 1952.

### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

20/1, GURUSADAY ROAD, BALLYGUNGE, CALCUTTA-19.

Before Shri K. S. Campbell-Puri, B.A., LL.B., *Chairman*.

Section 33-A—Application No. 46

HINDUSTHAN COMMERCIAL BANK LTD.

In the matter of an application dated 6th June 1951 under Section 33-A of the Industrial Disputes Act (as amended) preferred by Shri Bachhoo Lal Srivastava Godown Keepers Hindusthan Commercial Bank Ltd., Unnao, through U.P. Bank Employees Union.

**Appearances:**

Shri V. N. Sekhri of U.P. Bank Employees Union for the applicant.

Shri K. N. Bhatnagar for the Bank.

**AWARD****BACHHOO LAL SRIVASTAVA**

1. This is one of the 140 applications filed under Section 33-A of Industrial Disputes Act (as amended) emanating from Uttar Pradesh. The application was admitted and notice was issued to the other side during the pendency of the industrial dispute pertaining to various banks referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication under Notification No. L.R. 2(273), dated 21st February 1950 and as such it was taken seisin of without any formal reference for adjudication.

2. On the completion of the pleadings, the hearing was fixed at Lucknow in the third week of December 1951. The representatives of Central Bank of India Ltd., National Bank of India Ltd., Allahabad Bank Ltd., Bank of Baroda Ltd., Punjab National Bank Ltd., United Commercial Bank Ltd., Habib Bank Ltd., Bank of Jaipur Ltd., Hind Bank Ltd., Hindusthan Commercial Bank Ltd., Hindusthan Mercantile Bank Ltd. and Bharat Bank Ltd., as well as the representatives of the U.P. Bank Employees Union attended the proceedings. Each application was heard individually but in the case of Bharat Bank, on the suggestion of parties, the applications were divided into various groups owing to the identical nature of facts and same arguments were applied in each case for the purpose of facility. A separate award is, however, necessary in each application under the provisions of Section 33-A and consequently all applications are dealt with separately for the purpose of adjudication.

3. The petitioner was an old employee having joined the Bank's service in 1945. It so happened that he fell ill and got his leave extended on medical grounds. His services however were terminated during the leave period by order dated 24th April 1951 on the ground that he had become surplus to the requirement of the Bank. It was argued on his behalf by the Union representative that there were several other employees who were junior to him who are not touched and as such his discharge from service was wholly untenable. It was also submitted that the necessary permission contemplated under section 33 was not obtained and the order of discharge was bad in law as well.

4. Shri Bhatnagar in reply frankly stated that this man was removed from service because the Treasurer wanted to substitute another man in his place. It was argued that in the Cash Department the Bank had to comply with the wishes of the Treasurer because he is the man on whose recommendation and guarantee the employees of the Cash Department more especially the Godown keepers are appointed. Some documentary evidence was adduced in the form of Exhibits 1, 2 and 3 in this connection which relate to the leave granted to the petitioner and the discharge order etc. The only question for determination is as to whether services of the nominee of the Treasurer working in the Cash Department rest at the pleasure of the Treasurer or the Bank management has also to look after his interests. It has been held once and again that the employees of the Cash Department are as good employees as others and they are governed by the rules and bye-laws of the Bank so far the security of service and other service conditions are concerned. In this view of the matter it would be perilous to hold that the Cash Department works under the whims and wishes of the Chief Cashier or the Treasurer. Their lordships of the All India Industrial Tribunal (Bank Disputes) in their award also made some pertinent observations in this connection and this Tribunal in its award in the case of 'Imperial Bank of India Vs. Bishan Narain and others' has discussed this question of same length *vide* award [published in the Gazette of India dated 27th January 1951 (pp. 23-27)] which need not be repeated. In the light of the finding given in the above quoted case I have no hesitation in coming to the conclusion that the attitude of helplessness shown by the Bank cannot be supported under the Industrial Disputes Act. In the result the application succeeds but in view of the fact that this Bank is a 'C' class Bank and the management might feel difficulty in taking him back in service at this stage I think the ends of justice would be met by awarding the petitioner substantial compensation which I assess six months salary plus all allowances at the rate which he was drawing at the time of discharge from service. Awarded accordingly.

K. S. CAMPBELL-PURI, Chairman,

Central Govt. Industrial Tribunal, Calcutta.

CALCUTTA;

10th January. 1952.



## CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

20/1, GURUSADAY ROAD, BALLYGUNGE, CALCUTTA-19

Before Shri K. S. Campbell-Puri, B.A., LL.B., Chairman.

Section 33-A—Application No. 47.

HINDUSTHAN COMMERCIAL BANK LTD.

In the matter of an application dated 6th June 1951 under Section 33-A of the Industrial Disputes Act (as amended) preferred by Shri Shyam Narain Khanna of Hindusthan Commercial Bank Ltd., Kanpur, through U.P. Bank Employees Union.

*Appearances:*

Shri V. N. Sekhri of U.P. Bank Employees Union for the applicant.

Shri K. N. Bhatnagar for the Bank.

**AWARD**

SHYAM NARAIN KHANNA:

1. This is one of the 140 applications filed under Section 33-A of Industrial Disputes Act (as amended) emanating from Uttar Pradesh. The application was admitted and notice was issued to the other side during the pendency of the industrial dispute pertaining to various banks referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication under Notification No. L.R. 2(273), dated 21st February 1950 and as such it was taken seizin of without any formal reference for adjudication.

2. On the completion of the pleadings, the hearing was fixed at Lucknow in the third week of December 1951. The representatives of Central Bank of India Ltd., National Bank of India Ltd., Allahabad Bank Ltd., Bank of Baroda Ltd., Punjab National Bank Ltd., United Commercial Bank Ltd., Habib Bank Ltd., Bank of Jaipur Ltd., Hind Bank Ltd., Hindusthan Commercial Bank Ltd., Hindusthan Mercantile Bank Ltd., and Bharat Bank Ltd., as well as the representatives of the U.P. Bank Employees Union attended the proceedings. Each application was heard individually but in the case of Bharat Bank, on the suggestion of parties, the applications were divided into various groups owing to the identical nature of facts and same arguments were applied in each case for the purpose of facility. A separate award is, however, necessary in each application under the provisions of Section 33-A and consequently all applications are dealt with separately for the purpose of adjudication.

3. The grievance of the petitioner is that he was getting his increments alright and his work was always satisfactory but the yearly increment which fell due on 1st January 1951 was withheld arbitrarily by the employer. It was argued on his behalf by the Union representative that the withholding of the increment amounted to the violation of the provisions of section 33 and the relief sought for was for the release of the increment with effect from 1st January 1951.

4. Shri K. N. Bhatnagar, Bank representative in reply urged that on the annulment of the All India Industrial Tribunal (Bank Disputes) award certain directions were issued by the Ministry of Labour and in compliance of that the salaries were frozen. Reference was made to Industrial Disputes (Amendment and Temporary Provisions) Act, 1951 and it was urged that the construction put by the Bank on the provisions of section 7 of the said Act as stated in the written statement was correct. The Union representative in reply also referred to certain correspondence on the question of withholding increments between the Bank management and the Conciliation Officer (Central), Kanpur. Shri Bhatnagar was called upon to produce the correspondence in order to appreciate as to what view was taken by the Conciliation Officer in the matter. The same was brought on the record and on the perusal of this correspondence I find that the Bank was more than once asked to release the annual increment due to the staff with effect from 1st January 1951 but the management did not see their way to comply with their directions issued by the Conciliation Officer (Central), Kanpur. A letter dated 3rd March 1951 emanating from the office of the Conciliation Officer (Central) Kanpur No. COK II/2a-51/2614 addressed to the Manager, Hindusthan Commercial Bank on the subject of annual increment reveals that the question was considered on all its aspects by the learned Conciliation Officer. (The letter in question is filed in the case of Rohini Nandan Misra). Another letter No. COK II/2a-450/251, dated 18th May 1951 from the Conciliation Officer (Central) Kanpur to the said Manager in reply to Bank's letter E/51/955, dated 10th May 1951 was also sent in which it was emphasised by the Conciliation Officer that the

Bank will take early steps to make payment of the annual increment due to the staff on and from 1st January 1951 for the period from 1st January 1951 to 11th February 1951 and in case they did not agree with the view held by him they would let him know as early as possible. The correspondence shows that no further reply was given by the Bank management and ultimately the same question has been posed for discussion before this Tribunal. The stand taken up by the Bank side is more or less based on the provisions of section 7 of Industrial Disputes (Amendment and Temporary Provisions) Act, 1951 with the impression that the Ministry of Labour have passed orders freezing the salaries and allowances. The position however is just the contrary and the legislature meant only that these employees should not get less salary than what they were getting on 1st April 1951. Section 7 reads as follows:

"7. Temporary provisions relating to scales of pay, etc. of workmen in banking companies.—(1) No employer in relation to any banking company carrying on business in any Part A State or the state of Delhi, Ajmer or Coorg or the Andaman and Nicobar Islands shall, save in accordance with the terms of any settlement arrived at, or any award made, under the Industrial Disputes Act, 1947 (XIV of 1947),—

- (a) alter, to the prejudice of any workman employed in such banking company, the scale of pay or rate of allowances according to which he has been paid, or would, if he had been continuously employed during the month of March, 1951, have been paid, in respect of any monthly, weekly or other period immediately before the 1st day of April, 1951; or
- (b) recover from any such workman any amount already paid to him whether as pay or allowances (in accordance with any scales of pay or rates of allowances which were applied to him at any time after the 1st day of February, 1950) on the ground that the workman was not legally entitled to such scales of pay or rates of allowances.

\* \* \* \*

- (2) For the removal of doubts, it is hereby declared that notwithstanding anything contained in any law it shall be lawful to make such retrospective adjustment in relation to scales of pay and rates of allowances referred to in sub-section (1) as may be necessary in order to give effect to the terms of any settlement arrived at or award made under the Industrial Disputes Act, 1947 (XIV of 1947)."

The wording clearly ordains that no employer could alter to the prejudice of any workman employed in any Banking Company the scales of pay or rate of the allowance according to which he had been paid. The Bank management either appears to have been misled or has delayed the release of the increment under the barricade of this provision upto now. The provisions upon which reliance was placed clinches the matter and needs no elaboration. In the result the petition succeeds and the Bank is directed to release the increment with effect from 1st January 1951 at the earliest and not later than one month from the date of the publication of the award.

K. S. CAMPBELL-PURI, *Chairman*,  
Central Govt. Industrial Tribunal, Calcutta.

CALCUTTA:  
10th January, 1952.

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

20/1 GURUSADAY ROAD, BALLYGUNGE, CALCUTTA-19.

Before Shri K. S. Campbell-Puri, B.A., LL.B., *Chairman*

Section 33-A Application No. 72

HINDUSTAN COMMERCIAL BANK LTD

In the matter of an application under section 33-A of the Industrial Disputes Act (as amended) preferred by Shri Murari Lal Agarwal, Godown Keeper, Harpalpur Pay Office of Hindusthan Commercial Bank Ltd.

**Appearances:**

Shri V. N. Sekhri of U.P. Bank Employees Union for the applicant.

Shri K. N. Bhatnagar for the Bank.

**AWARD**

MURARI LAL AGARWAL

This is one of the 140 applications filed under section 33-A of Industrial Disputes Act (as amended) emanating from Uttar Pradesh. The application was admitted and notice was issued to the other side during the pendency of the industrial dispute pertaining to various banks referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication under Notification No. L.R.2 (273), dated 21st February 1950 and as such it was taken seisin of without any formal reference for adjudication.

2. On the completion of the pleadings, the hearing was fixed at Lucknow in the third week of December 1951. The representatives of Central Bank of India Ltd., National Bank of India Ltd., Allahabad Bank Ltd., Bank of Baroda Ltd., Punjab National Bank Ltd., United Commercial Bank Ltd., Habib Bank Ltd., Bank of Jaipur Ltd., Hind Bank Ltd., Hindusthan Commercial Bank Ltd., Hindusthan Mercantile Bank Ltd., and Bharat Bank Ltd., as well as the representatives of the U.P. Bank Employees Union attended the proceedings. Each application was heard individually but in the case of Bharat Bank, on the suggestion of parties, the applications were divided into various groups owing to the identical nature of facts and same arguments were applied in each case for the purpose of facility. A separate award is, however, necessary in each application under the provisions of section 33-A and consequently all applications are dealt with separately for the purpose of adjudication.

3. The facts put briefly are these. The petitioner was a permanent employee of the Bank. He was appointed as a Cashier in 1945 but subsequently was made a Godown Keeper which post is at par with the Cashier. He went on leave in March 1951, which was extended upto 25th May 1951, but meanwhile he received the order of discharge dated 5th May 1951 terminating his services. It was argued on his behalf that he was not the juniormost in the Cash Department and there were others under the guarantee of the same Treasurer but still his services were dispensed with and the principle of 'last come first go' was not applied. Finally, it was submitted that the permission under Section 33 of the Act was not obtained and as such the provisions of section 33-A were also violated. It was next argued that the allegations now made against the petitioner in the written statement viz., that he was tried at three offices and did not satisfy the superior officers or that a sum of Rs. 3,700/- was handed over to him and a shortage of Rs. 100/- was found in that, constituted after-thought inasmuch as in the order of discharge it was only stated that the petitioner had become surplus to the requirements of the Bank. Furthermore, it was urged that the reference to a shortage of Rs. 100 relates to the year 1950 (13th February 1950) and has no bearing on the merits of the case for retrenchment.

4. Shri Bhatnagar in reply while referring to the complaint about the shortage of money as mentioned in the written statement, produced the original complaint as well as the explanation (Exs. 1 and 2) respectively. It was argued that in the order of discharge no doubt it was mentioned that he had become surplus but his previous conduct also prevailed in arriving at the decision. It was added that he was found quarrelsome and discourteous to the parties and all these factors went against him in considering his case in the review of services.

5. Now the point for determination in the light of the facts given above is as to whether due enquiry was made in regard to the main charge levelled against the petitioner viz., shortage of money and that he was discourteous to the parties and was not behaving properly in the discharge of his duties. The first accusation relates to an incident when a complaint was made by Messrs Singhai Kundanlal Bhailyal, one of the constituents at Lalitpur that Shri M. L. Agarwal had concealed a hundred rupee note under his seat when he was handed over a sum of Rs. 3,700/- by the aforesaid party for crediting the same in their accounts. The Officer-in-charge of Lalitpur made enquiry at the spot and a hundred rupee note was recovered from the cash counter where Shri Agarwal was sitting. The Bank, however, did not take any drastic action in the absence of definite proof about the complicity of Shri Agarwal in concealing the note and transferred him to Mauranipur office. The Agent of Mauranipur Branch soon after reported against him that he was a man of quarrelsome nature and the Agent could not get on smoothly with him. The petitioner was accordingly transferred to Harpalpur office but

the officer-in-charge of that office also complained against him and ultimately his services were terminated on payment of one month's salary and Dearness Allowance. The accusation of concealing a hundred rupee note manifestly was a serious one and his services were not actually terminated on that account. It however appears that his antecedents came in the way when ultimately his services were dispensed with. It is just possible that the management might have refrained from referring to his antecedents in the order of discharge with a view not to mar his future career but technically the previous incident has no bearing on the question of discharge. In these circumstances it is not established on the record that he had actually become surplus to the requirement and as such no case of retrenchment has been made out. The explanation of the petitioner (Ex. 1) to the charge of concealing a hundred rupee note also throws good deal of doubt on the allegation made by the constituent against him. Accordingly the application shall have to be decided on the present cause of action which resulted in the termination of his services. In this respect there is no material on the record and I have no alternative but to come to the conclusion that the discharge order was not warranted by the merits of the case and also suffers from legal defect for want of prior permission as contemplated under section 33. Coming to the relief I am of the opinion that in the case of this Bank which is a C class bank it would serve no useful purpose to direct his reinstatement and the ends of justice will be met by awarding him some compensation. The petitioner as borne out from the above discussion was tried at more than one offices and everytime was reported against by the officer incharge for his quarrelsome habits. It appears that there is something wrong with the man and in consideration of all the facts and circumstances I would allow three months salary and allowances at the rate which he was drawing at the time of discharge by way of compensation and direct the Bank to pay the amount within one month from the date when the award becomes operative.

K. S. CAMPBELL-PURI, *Chairman*,

Central Government Industrial Tribunal, Calcutta.

CALCUTTA;

10th January, 1952.

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

20/1, GURUSADAY ROAD, BALLYGUNGE, CALCUTTA-19.

Before Shri K. S. Campbell-Puri, B.A., LL.B., *Chairman*.

#### Section 33-A—Application No. 77

HINDUSTHAN COMMERCIAL BANK LTD.

In the matter of an application dated 26th June 1951 under Section 33-A of the Industrial Disputes Act (as amended) preferred by Shri Ram Gopal Gupta, Ex. Clerk, Hindusthan Commercial Bank Ltd., Agra, through U.P. Bank Employees Union.

#### Appearances:

Shri B. D. Sharma of U.P. Bank Employees Union for the applicant.

Shri K. N. Bhatnagar for the Bank.

#### AWARD

RAM GOPAL GUPTA

1. This is one of the 140 applications filed under Section 33-A of Industrial Disputes Act (as amended) emanating from Uttar Pradesh. The application was admitted and notice was issued to the other side during the pendency of the industrial dispute pertaining to various banks referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication under Notification No. LR.2(273), dated 21st February 1950 and as such it was taken seisin of without any formal reference for adjudication.

2. On the completion of the pleadings, the hearing was fixed at Lucknow in the third week of December 1951. The representatives of Central Bank of India Ltd., National Bank of India Ltd., Allahabad Bank Ltd., Bank of Baroda Ltd., Punjab National Bank Ltd., United Commercial Bank Ltd., Habib Bank Ltd., Bank of Jaipur Ltd., Hind Bank Ltd., Hindusthan Commercial Bank Ltd., Hindusthan Mercantile Bank Ltd., and Bharat Bank Ltd., as well as the representatives of the U.P. Bank

Employees Union attended the proceedings. Each application was heard individually but in the case of Bharat Bank, on the suggestion of parties, the applications were divided into various groups owing to the identical nature of facts and same arguments were applied in each case for the purpose of facility. A separate award is, however, necessary in each application under the provisions of Section 33-A and consequently all applications are dealt with separately for the purpose of adjudication.

3. The case of the Union in brief is that Shri R. G. Gupta was working in the Cash department as a clerk when it so happened that in May 1950 a shortage of Rs. 40,000 was found in the accounts was working as a clerk only. The matter was reported to the police and he was sent up by the police and was placed on trial before a Magistrate but was ultimately acquitted of the charge. The management suspended him when he was challaned by the police in May 1950 and dismissed him from service on 20th December 1950 when the case was still pending in the court of the trial judge. The petitioner on acquittal in March 1951 made a representation to the management for his reinstatement while setting aside the order of suspension and that of dismissal thereto. He was however informed by letter dated 15th May 1951 (Ex.A) that the head office did not see any reason to reinstate him even after his acquittal from the charge. Reliance was placed on the Central Government Standing Orders (mentioned at page 147 in the Analysis of Industrial Awards) wherein it has been laid down that no dismissal can take place unless the workman concerned is informed in writing of the alleged misconduct and is given an opportunity of explaining the charge made against him. The argument precisely was that he should not have been dismissed before the verdict of the court where the case was being heard and that the Bank was not justified in not entertaining his application to reinstate him.

4. The stand taken up by the Bank in reply was to the effect that the question of acquittal was not material because the Bank could not retain the petitioner in service even after his acquittal because he had lost the confidence of the employer. Replying to the other plea that he should not have been dismissed during the pendency of the trial, Shri Bhatnagar submitted that when the petitioner was arrested and sent up by the police to stand his trial he could not be detained in service.

5. Shri Sekhri, on behalf of the applicant, controverting the argument of the Bank side furthermore argued that even if the Bank did not wish to retain the petitioner in service after his acquittal from the charge, it was necessary for the Bank to make fresh enquiry and come to a certain conclusion. Reference was made to the case of Adhir Ranjan Dey and others of Hindusthan Commercial Bank [Ministry of Labour Notification No. LR.2(268)I, dated 17th January 1950.]

6. Now the position put in nut-shell is that the petitioner was arraigned for an offence of misappropriation and was actually placed on trial but the prosecution failed and he was acquitted. The copy of the order of the trial court was not brought on the record although reliance was placed on that and in its absence it is not known, as to whether he was given the benefit of doubt or the prosecution failed altogether. In some cases it is just possible that prosecution might fail for want of evidence and in others it may be definitely found that the accused was not connected with the offence and was falsely implicated and thereby got honourably acquitted. The other aspect of the question to be considered is as to whether after acquittal from charge, the employer is bound to take back the acquitted man in service on the assumption that the charge levelled against him had failed. This point came up for discussion before their lordships of the All India Industrial Tribunal (Bank Disputes) in the case of Adhir Ranjan Dey and others of Hindusthan Commercial Bank Ltd., upon which reliance was placed by Shri Sekhri on behalf of the petitioner. Their lordships of the aforesaid Tribunal made some pertinent observations and the same may be reproduced as under:

"As the Bank entertained reasonable suspicions against these people, it would not be in a position to trust them any more in connection with any work if they are ordered to be reinstated, and in the absence of such trust they would feel that they were not being properly treated by the Bank and would be unlikely to take proper interest in any work they might be entrusted with. But we are of opinion that the circumstances of these cases were such as to justify the Bank's action in terminating their services. The Bank, in its own interest and that of its constituents, is bound to see that its transactions with the public are not unnecessarily endangered by the entertainment on its staff of persons whom it is unable to trust. We, therefore, make no order in these cases."

The decision in the case of Adhir Ranjan Dey and others accordingly went against the employees and is of no help to the petitioner. The authority cited rather runs

counter to the argument advanced by the Union side. I subscribe to the view taken by their lordships in the above case and would only add that no hard and fast rule can be laid down and in cases where the acquittal is honourable and the charge proved false or frivolous, the employee was entitled to vindicate his position by way of reinstatement but at the same time it does not follow that acquittal by itself gives a right to the accused for the purpose of being taken back into the service more especially in Banking institutions where one should always inspire confidence. The other contention raised by the Union side viz., that it was necessary for the employer to make their own enquiries and come to certain conclusions also does not appeal to me to be a sound one. To my mind it is not always possible to insist that an enquiry should be conducted once more when elaborate and proper enquiry in Court has already taken place and the accused had an opportunity to meet the charge against him. The position accordingly hinges more or less on the point as to whether re-taking of an acquitted person was fraught with risk which must be avoided in the interest of commercial concern and this primarily lies in the discretion of the employer. In the absence of any evidence that the employer was inimical towards the employee or was influenced by ulterior motive or unfair labour practice such discretion should not ordinarily be interfered with. The result is that the petition has no merit and the same is dismissed.

K. S. CAMPBELL-PURI, *Chairman*,  
Central Govt. Industrial Tribunal, Calcutta.

CALCUTTA:  
10th January, 1952.

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

20/1 GURUSADAY ROAD, BALLYGUNGE, CALCUTTA—19.

Before Shri K. S. Campbell-Puri, B.A., LL.B., *Chairman*.

Section 33-A—Application No. 98.

HINDUSTHAN COMMERCIAL BANK LTD.

In the matter of an application dated 6th July 1951 under Section 33-A of the Industrial Disputes Act (as amended) preferred by Shri Murarilal Agarwal, Head Clerk, Hindusthan Commercial Bank Ltd., Agra, through U.P. Bank Employees Union.

#### Appearances:

Shri V. N. Sekhri of U.P. Bank Employees Union for the applicant.  
Shri K. N. Bhatnagar for the Bank.

#### AWARD

MURARI LAL AGARWAL

1. This is one of the 140 applications filed under Section 33-A of Industrial Disputes Act (as amended) emanating from Uttar Pradesh. The application was admitted and notice was issued to the other side during the pendency of the industrial dispute pertaining to various banks referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication under Notification No. LR.2(273), dated 21st February 1950 and as such it was taken *seizin* of without any formal reference for adjudication.

2. On the completion of the pleadings, the hearing was fixed at Lucknow in the third week of December 1951. The representatives of Central Bank of India Ltd., National Bank of India Ltd., Allahabad Bank Ltd., Bank of Baroda Ltd., Punjab National Bank Ltd., United Commercial Bank Ltd., Habib Bank Ltd., Bank of Jaipur Ltd., Hind Bank Ltd., Hindusthan Commercial Bank Ltd., Hindusthan Mercantile Bank Ltd., and Bharat Bank Ltd., as well as the representatives of the U.P. Bank Employees Union attended the proceedings. Each application was heard in dividually but in the case of Bharat Bank, on the suggestion of parties, the applications were divided into various groups owing to the identical nature of facts and same arguments were applied in each case for the purpose of facility. A separate award is, however, necessary in each application under the provisions of Section 33-A and consequently all applications are dealt with separately for the purpose of adjudication.

3. The salient facts of this case are that the petitioner was an old employee and his services were terminated on the plea that he became surplus to the requirements but the post which he was holding was never abolished and was subsequently filled

by importing another man to replace him. Shri Sekhri arguing on his behalf contended that he was an office bearer and an active member of the Union and on various occasions was elected as representative of the employees for conducting cases of the Union. It was urged that his Trade Union activities were not liked by the Bank and he was victimized on the plea of retrenchment. It was further argued that more than one persons in clerical and supervisory grade who are junior to him are still working and this circumstance would also support the plea of the Union that his case was one of victimization. It was stressed that even in case he could not be absorbed in supervisory staff he could have been taken in the clerical cadre but nothing was done for him and he was thrown out of employment. Lastly, it was submitted that permission under section 33 was not obtained. Reliance was placed on certificates placed on the record (Exs. A to E) in regard to his good work and faithful service and letters of appreciation issued by the Manager in recognition of his meritorious services (Exs. F, G and H). It was emphasised that he worked in various capacities in responsible posts and rendered good service to the Bank but despite that he was thrown off on flimsy plea of retrenchment.

4. Shri Bhatnagar on behalf of the Bank in reply did not join issue on the question that he was working satisfactorily. The sole question for determination is that when the Bank reviewed their financial position as a measure of economy as stated by them and examined the cases of various employees for the purpose of retrenchment, whether Shri Murari Lal Agarwal was retrenched in good faith. In the application of the principle of seniority it was wrong to say that he was replaced by any junior man.

5. Now the position taken up by the Bank was that Shri Murari Lal's services were retrenched in good faith, but the plea of the Union viz. 'the petitioner was retrenched on account of his Trade Union activities' was neither replied in the written statement dated 31st July 1951 filed by the Bank nor was specifically denied in the course of argument. Shri Agarwal in his petition had referred to his trade union activities in particular and alleged *inter alia* that on account of his Union activities he was an eye-sore to the employer who kept harassing him ultimately terminated his services. The Union representatives at the close of arguments also filed a chart wherein reference has been made to various persons in the supervisory grade who were junior to Shri Agarwal at the time of his discharge. In clause 'C' of para. 4 of this document the names of about 10 clerks have also been mentioned who were newly appointed after the discharge of Shri Agarwal and it was urged that in case the employer wanted to retain the services of the petitioner he could have easily been absorbed in the clerks cadre. Reference was also made to the services that he rendered to the Bank in various capacities and it was contended that his retrenchment from services was not *bona fide*.

6. While dealing with the case of Hindustan Commercial Bank as observed in some of the applications of retrenched persons it has been noted that this Bank which was put in the category of C class Banks by the All India Industrial Tribunal (Bank Disputes) was asked to rehabilitate their position by closing some of the unremunerative branches and it was in pursuance of this policy that this Bank actually closed some of their branches. In this view of the matter retrenchment relief has been allowed at the usual rate of half month's salary plus allowances for each completed year of service. But in this case on the strength of the evidence which has been placed on the record I do not think that the case of Shri Agarwal can be bracketed with other retrenched persons. This is correct that some branches were closed as a measure of economy and the retrenchment had become necessary but it appears that the Bank availed this opportunity in seeing some of the active workers of the Union shunted off and Shri Agarwal definitely falls in that category. The instances cited about and the new appointments made after his discharge may or may not furnish good evidence that retrenchment was not necessary but these instances do furnish good data that Shri Agarwal who had admittedly rendered good services to the Bank could be easily retained. The next question which falls for consideration is as to whether in these circumstances reinstatement is called for or substantial compensation would meet the ends of justice. The petitioner did not come into the witness box and was thus not subjected to cross examination which normally is essential to prove the case of victimization. I am, therefore, loath to allow reinstatement because a case of victimization has not been established by any direct cogent evidence and a decision sheer on presumption of unfair labour practice would not be sound one. I am however of the considered opinion that the Bank did not like the petitioner as evidenced from the facts and circumstances mentioned above and retrenched him unjustifiably. Accordingly I think that ends of justice will be met by allowing substantial compensation which I assess six months salary plus allowances at the rate that the petitioner was drawing at the time of discharge.

and the Bank is directed to make payment within one month from the date when the award becomes operative.

K. S. KAMPBELL-PURI, *Chairman*,  
Central Government Industrial Tribunal, Calcutta.

CALCUTTA:  
11th January 1952.

### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

20/1 GURUSADAY ROAD, BALIYUNGGE, CALCUTTA—19.

Before Shri K. S. Campbell-Puri, B.A., LL.B., *Chairman*.

Section 33-A—Application No. 122.

HINDUSTHAN COMMERCIAL BANK LTD.

In the matter of an application dated 1st August 1951 under section 33-A of the Industrial Disputes Act (as amended) preferred by Shri Shankar Dayal Misra of Hindusthan Commercial Bank Ltd., Kanpur, through U.P. Bank Employees Union.

#### Appearances:

Shri V. N. Sekhri of U.P. Bank Employees Union for the applicant.

Shri K. N. Bhatnagar for the Bank.

#### AWARD

##### SHANKAR DAYAL MISRA

This is one of the 140 applications filed under Section 33-A of Industrial Disputes Act (as amended) emanating from Uttar Pradesh. The application was admitted and notice was issued to the other side during the pendency of the industrial dispute pertaining to various banks referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication under Notification No. LR.2(273), dated 21st February 1950 and as such it was taken *selzin* of without any formal reference for adjudication.

2. On the completion of the pleadings, the hearing was fixed at Lucknow in the third week of December 1951. The representatives of, Central Bank of India Ltd., National Bank of India Ltd., Allahabad Bank Ltd., Bank of Baroda Ltd., Punjab National Bank Ltd., United Commercial Bank Ltd., Habib Bank Ltd., Bank of Jaipur Ltd., Hind Bank Ltd., Hindusthan Commercial Bank Ltd., Hindusthan Mercantile Bank Ltd., and Bharat Bank Ltd., as well as the representatives of the U.P. Bank Employees Union attended the proceedings. Each application was heard individually but in the case of Bharat Bank, on the suggestion of parties, the applications were divided into various groups owing to the identical nature of facts and same arguments were applied in each case for the purpose of facility. A separate award is, however, necessary in each application under the provisions of Section 33-A and consequently all applications are dealt with separately for the purpose of adjudication.

3. The petitioner was a permanent employee and his increment fell due on 1st January 1951 but the same was not granted to him. Reliance was placed on B. B. Singh's award and it was argued that the directions given in para. 161 of All India Industrial Tribunal (Bank Disputes) award referred to in the written statement of the Bank also go in favour of the petitioner inasmuch as it was specifically mentioned therein that until these directions become applicable, the terms of the previous awards would apply. It was concluded that in the light of this direction, Shri B. B. Singh's award and U.P. Conciliation Board award dictums in this respect were applicable and the Bank was not justified in treating the case of increment retrospectively as suggested by them in the written statement. It was also asserted that this matter of withholding of increments was referred to the Conciliation Officer, Kanpur, and he directed the Bank to release the increment but the same was not complied with and that the original letter sent by the Conciliation Officer to the Bank be seen from the record of the Bank.

4. Shri Bhatnagar in reply submitted that he was not in possession of the letter of the Conciliation Officer, Kanpur, referred to by the other side but another letter from the Conciliation Officer, Bombay, was available whereby the stand taken by the Bank was approved by the Conciliation Officer, Bombay. (Copy placed on the record—Ex. 1).



5. Now the letter of the Conciliation Officer, Bombay (Ex. 1) relied upon by the Bank representative relates to a dispute between the Hindusthan Commercial Bank Ltd., Ahmedabad Branch and the Ahmedabad Banks Employees Union (in Bombay State); and the directions given by the Conciliation Officer, Kanpur, are admittedly at variance with the one given by the Conciliation Officer, Bombay, in the case of Ahmedabad employees. But in view of the fact that all India Industrial Tribunal (Bank Disputes) award has been declared invalid by the Supreme Court of India, the directions referred to in paragraph 161 of that award have become nugatory and the Bank's plea of withholding increment based on the said directions is untenable. The question of construction put upon those instructions by the Conciliation Officers thus, is of no consequence and the increments which fell due on 1st January 1951 should have been released by this time. At any rate the Bank was allowed six months time by the All India Industrial Tribunal (Bank Disputes) for adjustment of increments and it was incumbent upon the Bank to see the increments adjusted after the expiry of six months time. The Bank representative failed to explain as to why the increment which fell due on 1st January 1951 was not released after July 1951 even if the delay of six months be condoned. I am, therefore, satisfied that the adjustments have been delayed without any good reason, and would, direct the Bank to release the increment asked for as early as possible and not later than one month when the award becomes effective, with retrospective effect i.e. from 1st January 1951. Awarded accordingly.

K. S. CAMPBELL-PURI, *Chairman*,

Central Government Industrial Tribunal, Calcutta.

CALCUTTA;

15th January 1952.

### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

20/1 GURUSADAY ROAD, BALLYGUNGE, CALCUTTA—19.

Before Shri K. S. Campbell-Puri, B.A., LL.B., *Chairman*.

Section 33-A—Application No. 123.

HINDUSTHAN COMMERCIAL BANK LTD.

In the matter of an application dated 1st August 1951 under Section 33-A of the Industrial Disputes Act (as amended) preferred by Shri Devi Prosad Awasthi of Hindusthan Commercial Bank Ltd., Kanpur, through U.P. Bank Employees Union.

#### *Appearances:*

Shri D. P. Awasthi in person.

Shri V. N. Sekhri of U.P. Bank Employees Union for the applicant.

Shri K. N. Bhatnagar for the Bank.

#### AWARD

##### DEVI PROSAD AWASTHI

This is one of the 140 applications filed under Section 33-A of Industrial Disputes Act (as amended) emanating from Uttar Pradesh. The application was admitted and notice was issued to the other side during the pendency of the industrial disputes pertaining to various banks referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication under Notification No. L.R.2(273), dated 21st February 1950 and as such it was taken seizin of without any formal reference for adjudication.

2. On the completion of the pleadings, the hearing was fixed at Lucknow in the third week of December 1951. The representatives of Central Bank of India Ltd., National Bank of India Ltd., Allahabad Bank Ltd., Bank of Baroda Ltd., Punjab National Bank Ltd., United Commercial Bank Ltd., Habib Bank Ltd., Bank of Jaipur Ltd., Hind Bank Ltd., Hindusthan Commercial Bank Ltd., Hindusthan Mercantile Bank Ltd., and Bharat Bank Ltd., as well as the representatives of the U.P. Bank Employees Union attended the proceedings. Each application was heard individually but in the case of Bharat Bank, on the suggestion of parties, the applications were divided into various groups owing to the identical nature of facts and same arguments were applied in each case for the purpose of facility. A separate award

is, however, necessary in each application under the provisions of section 33-A and consequently all applications are dealt with separately for the purpose of adjudication.

3. This application also relates to increment which fell due on 1st January 1951 and the same arguments were addressed by both sides. The discussion made in the previous case of Shri Shankar Dayal Misra (Application No. 122) would therefore apply in this case.

4. The Bank representative however raised another objection to the effect that the petitioner is an officer being Head Cashier and does not satisfy the definition of workman. This objection is repelled in the light of the finding given in Delhi State Bank Disputes award of this Tribunal as well as in some previous applications already decided.

5. In the result the Bank is directed to release the increments asked for, as early as possible and not later than one month from the date when the award becomes operative with retrospective effect i.e. from 1st January 1951. Awarded accordingly.

K. S. CAMPBELL-PURI, *Chairman*,  
Central Government Industrial Tribunal, Calcutta.

CALCUTTA;

15th January, 1952.

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

20/1 GURUSADAY ROAD, BALLYGUNGE, CALCUTTA—19.

Before Shri K. S. Campbell-Puri, B.A., LL.B., *Chairman*.

Section 33-A—Application No. 131.

HINDUSTHAN COMMERCIAL BANK LTD.

In the matter of an application dated 4th August 1951 under Section 33-A of the Industrial Disputes Act (as amended) preferred by Shri Shiva Saran Dikshit of Hindusthan Commercial Bank Ltd., Meerut Cantt Branch, through the U.P. Bank Employees Union.

#### Appearances:

Shri B. K. Porwal of U.P. Bank Employees Union for the applicant.

Shri K. N. Bhatnagar for the Bank.

#### AWARD

SHIVA SARAN DIKSHIT

This is one of the 140 applications filed under Section 33-A of Industrial Disputes Act (as amended) emanating from Uttar Pradesh. The application was admitted and notice was issued to the other side during the pendency of the industrial dispute pertaining to various banks referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication under Notification No. L.R.2(273), dated 21st February 1950 and as such it was taken *seizin* of without any formal reference for adjudication.

2. On the completion of the pleadings, the hearing was fixed at Lucknow in the third week of December 1951. The representatives of Central Bank of India Ltd., National Bank of India Ltd., Allahabad Bank Ltd., Bank of Baroda Ltd., Punjab National Bank Ltd., United Commercial Bank Ltd., Habib Bank Ltd., Bank of Jaipur Ltd., Hind Bank Ltd., Hindusthan Commercial Bank Ltd., Hindusthan Mercantile Bank Ltd., and Bharat Bank Ltd., as well as the representatives of the U.P. Bank Employees Union attended the proceedings. Each application was heard individually but in the case of Bharat Bank, on the suggestion of parties, the applications were divided into various groups owing to the identical nature of facts and same arguments were applied in each case for the purpose of facility. A separate award is, however, necessary in each application under the provisions of section 33-A and consequently all applications are dealt with separately for the purpose of adjudication.

3. The case put on his behalf by the Union was that he joined the Bank's service in 1945 and was working satisfactorily. It so happened that he fell ill in 1950 and

applied for leave which was again extended to 14th January 1950. In the course of the leave period he was transferred to Lucknow. He was still sick and was on leave when he received the orders dated 20th December 1950 that his services were no longer required. It was contended that the reason assigned in the order of discharge was that he had become surplus to the requirements. As disclosed from the written statement the plea of the Bank is that their lordships of the All India Industrial Tribunal (Bank Disputes) in their award at page 69 suggested that C class Banks may well adjust their financial position by closing certain uneconomic units. The Bank appears to have availed that suggestion to the detriment of the employees because those employees have been retrenched who actually raised the dispute. The argument was further stressed that whatever may be the position at any rate the permission of the Tribunal under section 33 was obligatory upon the Bank during the pendency of the proceedings and in the absence of such permission the order of discharge was bad in law.

4. Shri K. N. Bhatnagar in reply did not dispute the facts as stand on the record but it was contended however that the petitioner was found surplus in the adjustment of staff whose position was thoroughly reviewed under the directions of the All India Industrial Tribunal (Bank Disputes) in order to eliminate uneconomic units. The petitioner was working at Meerut City and was then transferred to Meerut Cantt. but in the course of his leave he was transferred to Lucknow and he was served with three months' notice on the 20th December 1950. Exhibits 1, 2, 3 and 4 were produced in evidence in support of this. The Bank representative frankly stated that the reason as to how he was made surplus he could not say. It was said that as already argued in other cases it was in pursuance of general policy.

5. This is a case of retrenchment and in the absence of any evidence that the services of the petitioner were dispensed with *malà fide* due to ulterior motive or bad labour practice, it is difficult to order reinstatement. Moreover, this Bank is a C class Bank and was given some time to rehabilitate their financial position by closing some of their uneconomic units and the retrenchment is traceable some how or other to economic policy. The petitioner is however entitled to retrenchment relief as awarded in other cases, and the Bank is directed to pay him half month's salary plus allowances for each completed year of service at the rate the petitioner was drawing at the time of discharge as retrenchment relief within one month of the publication of award.

K. S. CAMPBELL-PURI, *Chairman*,  
Central Government Industrial Tribunal, Calcutta.

CALCUTTA;

15th January, 1952.

# CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

20/1 GURUSADAY ROAD, BALLYGUNGE, CALCUTTA-19.

Before Shri K. S. Campbell-Puri, B.A., LL.B., *Chairman*.

*Section 33-A—Application No. 143.*

HINDUSTHAN COMMERCIAL BANK LTD.

In the matter of an application dated 18th August 1951, under section 33-A of the Industrial Disputes Act (as amended) preferred by Shri Jagdish Narain, Peon, Hindusthan Commercial Bank Ltd., Head Office, Kanpur.

*Appearances:*

Shri V. N. Sekhri of U.P. Bank Employees Union for the applicant.

Shri K. N. Bhatnagar for the Bank.

## AWARD

JAGDISH NARAIN, PEON

This is one of the 140 applications filed under section 33-A of Industrial Disputes Act (as amended) emanating from Uttar Pradesh. The application was admitted and notice was issued to the other side during the pendency of the industrial dispute pertaining to various banks referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication under Notification No. LR.2

(273), dated 21st February 1950 and as such it was taken seisin of without any formal reference for adjudication.

2. On the completion of the pleadings, the hearing was fixed at Lucknow in the third week of December 1951. The representatives of Central Bank of India Ltd., National Bank of India Ltd., Allahabad Bank Ltd., Bank of Baroda Ltd., Punjab National Bank Ltd., United Commercial Bank Ltd., Habib Bank Ltd., Bank of Jaipur Ltd., Hind Bank Ltd., Hindusthan Commercial Bank Ltd., Hindusthan Mercantile Bank Ltd., and Bharat Bank Ltd., as well as the representatives of the U.P. Bank Employees Union attended the proceedings. Each application was heard individually but in the case of Bharat Bank, on the suggestion of parties, the applications were divided into various groups owing to the identical nature of facts and same arguments were applied in each case for the purpose of facility. A separate award is, however, necessary in each application under the provisions of section 33-A and consequently all applications are dealt with separately for the purpose of adjudication.

3. The petitioner is a peon and joined the Bank's service in the year 1944 at the head office, Kanpur. He was transferred to Lalitpur Branch on 12th October 1950. He joined Lalitpur branch but soon after his services were terminated all of a sudden without assigning any reason. It was urged on his behalf by the Union that he was an old employee and his services could not be terminated without assigning any good reason, and the one now given in the written statement viz., 'that the petitioner had become surplus to the requirements and his services were terminated in the purview of directions given in para. 322(1) of the All India Industrial Tribunal (Bank Disputes) award on payment of three months salary', did not apply in his case because he was an old senior employee. It was next argued that more than one dozen new appointments in the cadre of Peons have been made and the petitioner could be easily absorbed.

4. Shri Bhatnagar in reply adhered to his contention that the directions laid down under para. 322(1) of the All India Industrial Tribunal (Bank Disputes) award applied and not those mentioned in para. 322(7) because it was not a case of the closure of a branch. It was maintained that it is a case of purely retrenchment and that he was not replaced by any other person.

5. Now the position taken up by the Bank as explained above was that this employee was retrenched from Lalitpur Branch and was not replaced by any other person, but at the same time it was not denied that new appointments have been made at some other places. Be that as it may, I think in the absence of any plea much less evidence that the petitioner's services were terminated on account of any bad labour practice, I have no other alternative but to allow him the usual retrenchment relief which has been awarded in other cases. The result is that he will get half month's salary plus allowances for each completed year of service and the Bank is directed to pay the petitioner at the rate of salary and allowances that he was drawing at the time of discharge as compensation within one month from the date when the award becomes operative.

K. S. CAMPBELL-PURI, *Chairman,*  
Central Government Industrial Tribunal, Calcutta.

CALCUTTA;

15th January 1952.

## CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

20/1 GURUSADAY ROAD, BALLYGUNGE, CALCUTTA-19.

Before Shri K. S. Campbell-Puri, B.A., LL.B., *Chairman*

Section 33-A—Application No. 33

HINDUSTHAN MERCANTILE BANK LTD.

In the matter of an application dated 6th June 1951 of the Industrial Disputes Act (as amended) preferred by Shri Rameshwar Prosad Gupta, Ex-clerk, Hindusthan Mercantile Bank Ltd., Kanauj Branch, through U.P. Bank Employees Union.

*Appearances:*

Shri B. K. Porwal of U.P. Bank Employees Union for the applicant.

Shri Jivendra Nath, Accountant, for the Bank.

**AWARD**

**RAMESHWAR PROSAD GUPTA.**

This is one of the 140 applications filed under section 33-A, of Industrial Disputes Act (as amended) emanating from Uttar Pradesh. The application was admitted and notice was issued to the other side during the pendency of the industrial dispute pertaining to various banks referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication under Notification No. LR.2(273), dated 21st February 1950 and as such it was taken seisin of without any formal reference for adjudication.

2. On the completion of the pleadings, the hearing was fixed at Lucknow in the third week of December 1951. The representatives of Central Bank of India Ltd., National Bank of India Ltd., Allahabad Bank Ltd., Bank of Baroda Ltd., Punjab National Bank Ltd., United Commercial Bank Ltd., Habib Bank Ltd., Bank of Jaipur Ltd., Hind Bank Ltd., Hindusthan Commercial Bank Ltd. Hindusthan Mercantile Bank Ltd., and Bharat Bank Ltd., as well as the representatives of the U.P. Bank Employees Union attended the proceedings. Each application was heard individually but in the case of Bharat Bank, on the suggestion of parties, the applications were divided into various groups owing to the identical nature of facts and same arguments were applied in each case for the purpose of facility. A separate award is, however, necessary in each application under the provisions of section 33-A and consequently all applications are dealt with separately for the purpose of adjudication.

3. The facts have been set out in the application and need not be repeated. The sum and substance of complaint is that Shri R. P. Gupta was an old employee and his services were terminated without having obtained permission contemplated under section 33 of the Act; although this Bank was also a party to the general Bank Reference [No. LR.2(273), dated 21st February 1950] and is borne out from the award in their case at page 1146 (U.P. State Bank Disputes award—Gazette of India dated 15th September 1951).

4. The Bank representative in reply submitted that in regard to the contention of the other side that the proceedings were pending before the Tribunal, there was only one case no doubt so far this Bank was concerned but the same had already been disposed of earlier to the discharge of the petitioner. He was actually dismissed for misconduct and was duly charge-sheeted and afforded an opportunity to explain and after proper and due enquiry, the head office found him guilty and his services were terminated on 10th April 1951. Record of the enquiry (Ex. 1) was produced.

5. The petitioner although met the charge and submitted his explanation in the course of inquiry, yet he stated in his application that his services were terminated without assigning any reason. Now, when the record of enquiry (Ex. 1) was produced the Union representative had no reply. On the perusal of Ex. 1 I find that the petitioner failed to satisfy the employer regarding his conduct and in those circumstances, I am not prepared to substitute my judgment in place of the decision arrived at after due enquiry. The only other contention urged on behalf of the petitioner was that no prior permission was obtained. The objection technically prevails because this Bank was also a party in the omnibus Bank Reference [No. LR. 2(273), dated 21st February 1950], but in almost all the Banks there has been some confusion on the construction put on the words 'workmen concerned' as contemplated under section 33 of the Act. The view that I have taken is that the words 'workmen concerned' include all workmen when read in the light of sub-section (4) section 18 of the Act and not the only persons whose cases were pending before the Tribunal. It appears that permission was not sought for in good faith and the legal flaw does not vitiate the order *ab-initio* as held and explained in other cases. I therefore uphold the finding of fact with the result that the petition is dismissed.

K. S. CAMPBELL-PURI, *Chairman,*  
Central Govt. Industrial Tribunal, Calcutta.

CALCUTTA:

15th January, 1952.

## CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

20/1, GURUSADOY ROAD, BALLYGUNGE, CALCUTTA-19.

Before Shri K. S. Kampbell-Puri, B.A., LL.B., *Chairman*.

## Section 33-A—Application No. 74

HINDUSTHAN MERCANTILE BANK LTD.

In the matter of an application under section 33-A of the Industrial Disputes Act (as amended) preferred by Shri Ram Narain Mehrotra, Ex-Assistant Cashier of Hindusthan Mercantile Bank Ltd., Kanpur, through U.P. Bank Employees Union.

*Appearances:*

Shri B. K. Porwal of U.P. Bank Employees Union for the applicant.

Shri Jivendra Nath, Accountant, for the Bank.

## AWARD

## RAM NARAIN MEHROTRA:

This is one of the 140 applications filed under section 33-A of Industrial Disputes Act (as amended) emanating from Uttar Pradesh. The application was admitted and notice was issued to the other side during the pendency of the industrial dispute pertaining to various banks referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication under Notification No. LR.2(273), dated 21st February 1950 and as such it was taken seisin of without any formal reference for adjudication.

2. On the completion of the pleadings, the hearing was fixed at Lucknow in the third week of December 1951. The representatives of Central Bank of India Ltd., National Bank of India Ltd., Allahabad Bank Ltd., Bank of Baroda Ltd., Punjab National Bank Ltd., United Commercial Bank Ltd., Habib Bank Ltd., Bank of Jaipur Ltd., Hind Bank Ltd., Hindusthan Commercial Bank Ltd., Hindusthan Mercantile Bank Ltd., and Bharat Bank Ltd., as well as the representatives of the U.P. Bank Employees Union attended the proceedings. Each application was heard individually but in the case of Bharat Bank, on the suggestion of parties, the applications were divided into various groups owing to the identical nature of facts and same arguments were applied in each case for the purpose of facility. A separate award is, however, necessary in each application under the provisions of section 33-A and consequently all applications are dealt with separately for the purpose of adjudication.

3. The Union's case is that the petitioner was an old employee and his services were terminated unjustifiably on 11th June 1951 on the only ground that the Head Cashier had withdrawn the guarantee in his case. Replying to the contention of the Bank that he was charged for complicity in a fraud case involving about Rs. 1,000, it was submitted that the employee was not responsible for that fraud and the reason for his discharge from service was that a son of the Head Cashier was to be absorbed in the service of the Bank and on the termination of his services he was actually employed. It was next urged that permission under section 33 at any rate was obligatory upon the Bank before discharging a permanent employee from service. The same was not obtained and as such the order was bad in law.

4. The Bank representative in reply submitted that so far the merits and facts are concerned the same are fully set out in the written statement and he relied upon that. He only added that Shri Girdharilall Jaitely, son of the Head Cashier referred to above was not appointed in place of the petitioner, was working only as Assistant without any remuneration and this fact had nothing to do with the termination of service of Shri R. N. Mehrotra. Replying to the legal contention viz. that the permission under section 33 was not obtained it was argued that the same was not necessary because the Treasurer or the Chief Cashier had withdrawn the guarantee of the petitioner which is necessary in the Cash Department. The following documents were produced in evidence:

- (1) Copy of charge-sheet dated 9th June 1951 (Ex. 1),
- (2) Explanation of Shri Ram Narain Mehrotra (Ex. 2), and
- (3) The letter of the Chief Cashier withdrawing the guarantee (Ex. 3).

It was however admitted that no charge-sheet was given as it was not necessary because the guarantee by the Chief Cashier was withdrawn.

5. Now although the plea of misconduct was raised by the Bank side but it was admitted that no charge-sheet was given to the employee nor any enquiry made regarding the alleged fraud because the Chief Cashier had withdrawn the guarantee of the petitioner and his services were dispensed with on that account. The argument boils down to this that the petitioner was discharged because the guarantee was withdrawn. This plea has not found favour with the Tribunals and I have also held in more than one cases that the employees of the Cash Department are as good employees as others are and sheer withdrawing of guarantee when the necessary security was forthcoming is not a good cause for the discharge of the employee for the simple reason that the employees of the Cash Department would become the employees of the Head Cashier and not of the Bank which position is not tenable in the purview of the Industrial Disputes Act. In regard to the alleged fraud it was also urged by the Union side that the son of the Head Cashier was also working with the petitioner, and if any enquiry had been made the Head Cashier's son was also to be implicated and the Head Cashier could not afford that. This circumstance reveals that the responsibility for shortage was apportioned between two persons. I am not satisfied, therefore, that the petitioner was wholly responsible for the shortage of money but as his conduct does not appear above reproach I am not prepared to consider the question of reinstatement and I think that the ends of justice would be met by awarding some compensation.

6. And regarding the quantum of compensation I assess four months salary plus allowances in consideration of his previous service of some standing. The Bank is accordingly directed to pay the amount at the rate which the petitioner was drawing at the time of discharge within one month from the date when the award becomes operative.

K. S. CAMPBELL-PURI, *Chairman,*  
Central Government Industrial Tribunal, Calcutta.

CALCUTTA;  
15th January 1952.

[No. LR-90(140).]

N. C. KUPPUSWAMI, Under Secy.

